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federal register

Thursday
February 14, 1980

Highlights

9885 **Nuclear Cooperation with EURATOM;** Executive order

10184 **Airport Aid Program** DOT/FAA amends regulations so that no person is excluded on grounds of race, creed, color, national origin, or sex from airport development or planning activities conducted with funds received from grant; effective 3-17-80 (Part III of this issue)

9967 **Emergency Energy Conservation Services** CSA issues decision to fund ten conduit migrant and seasonal farmworkers operating in every State except Hawaii and Alaska; effective 2-14-80

10092 **Evidentiary Information in Criminal Trials** Justice/NIJ announces competitive research grant; pre-proposals postmarked by 4-11-80

10092 **"Private Security" in the United States** Justice/NIJ announces competitive research project; apply by 3-28-80

9966 **Energy Crisis Intervention** CSA clarifies policy governing grants funds in fiscal year 1980

10290 **Hazardous Cribs** CPSC announces provisional acceptance of consent agreement with Bassett Furniture Industries, Inc. (Part VIII of this issue)

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Area Code 202–523–5240

Highlights

9895 **Mortgage Insurance and Home Improvement Loans** HUD/Office of Assistant Secretary for Housing—Federal Housing Commissioner issues regulations designed to bring maximum interest rate and financing charges into line with other competitive market rates; effective 2–11–80

9948 **HUD Minimum Property Standards** HUD/Office of the Assistant Secretary for Housing—Federal Housing Commission proposes requirements for flow controls on shower heads and aerators on faucets of lavatories and kitchen sinks; comments by 4–14–80

10240 **Rural Housing Loan Policies, Procedures and Authorizations** USDA/FmHA proposes redesignation and revision designed to facilitate and improve administration of services; comments by 4–14–80 (Part VI of this issue)

9944 **Farm Credit System** FCA proposes use of supervisory reports issued to bank boards of directors to assist the board in discharging its responsibilities; comments by 4–14–80

9953 **Medicare Program** HEW/HCFA proposes changes in procedures of the Provider Reimbursement Reviewer Board to streamline and resolve problems; comments by 4–14–80

9898 **Financial Responsibility** DOD/AF issues regulations stating conditions a complainant must meet before requests for assistance in processing debt complaints are accepted and tells how to process accepted requests

9997 **General Education Provisions** HEW/Office of the Assistant Secretary for Education gives notice of data collection by Federal agencies from educational agencies or institutions during school year 1980–81

9948 **Improving Government Regulations** EEOC issues semiannual agenda of significant regulations

10111 **Sunshine Act Meetings**

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10184 **Part III, DOT/FAA**
10194 **Part IV, DOE/Office of Conservation and Solar Energy**
10236 **Part V, DOT/FHWA**
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Presidential Documents

Title 3—

The President

Executive Order 12193 of February 12, 1980

Nuclear Cooperation With EURATOM

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to Section 126a(2) of such Act, failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of the United States non-proliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to March 10, 1981.

Jimmy Carter

THE WHITE HOUSE,
February 12, 1980.

Editorial Note: The text of the President's letters to the Speaker of the House and the President of the Senate, dated Feb. 7, 1980, on exports of nuclear fuels, is printed in the Weekly Compilation of Presidential Documents (vol. 16, p. 286).

[FR Doc. 80-5052
Filed 2-13-80; 11:50 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 45, No. 32
Thursday, February 14, 1980

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.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 417

Sugarcane Crop Insurance Regulations—Amendment No. 2; Correction

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: The final rulemaking published in the **Federal Register** on Thursday, December 13, 1979 (44 FR 72089), on the Sugarcane Crop Insurance Regulations, Amendment No. 2, inadvertently omitted a county in Florida where such insurance is authorized to be offered. This notice is being published to correct that error.

EFFECTIVE DATE: February 14, 1980.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The correction is as follows:

In the "Appendix B" of 7 CFR Part 417, as appearing on page 72089 (44 FR 72089), the list of counties under the subheading "Florida" is hereby corrected by inserting alphabetically the word "Hendry" after the word "Glades" and before the words "Palm Beach".

Issued in Washington, D.C., on February 6, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80–4745 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 418

Wheat Crop Insurance Regulations—Amendment No. 1; Corrections

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; corrections.

SUMMARY: The final rulemaking published in the **Federal Register** on Thursday, December 13, 1979 (44 FR 72090), on the Wheat Crop Insurance Regulations, Amendment No. 1, contained inadvertent omissions of county names and a typographical error. This notice is being published to correct those errors.

EFFECTIVE DATE: February 14, 1980.

ADDRESS: Any suggestions or inquires on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The corrections are as follows:

1. The list of counties where wheat crop insurance is offered, as appearing in the left column of page 72091 (44 FR 72091), is corrected by inserting, after the listing for Alabama and before the listing for Arkansas, the following:

Arizona

Maricopa, Pinal, Yuma.

2. Under the subheading "Idaho" in the list of counties as appearing in the center column on page 72091 (44 FR 72091), insert the word "Elmore" between the words "Cassia" and "Franklin".

3. Under the subheading "Minnesota" in the list of counties as appearing in the left column on page 72092 (44 FR 72092), the correct spelling of "McCleod" is "McLeod".

4. Under the subheading "South Dakota" in the list of counties as appearing in the right column on page 72092 (44 FR 72092), insert the words "Charles Mix" between the words "Campbell" and "Clark".

Issued in Washington, D.C., on February 6, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80–4746 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 428

Sunflower Crop Insurance Regulations—Amendment No. 1; Correction

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: The final rulemaking published in the **Federal Register** on Thursday, December 20, 1979 (44 FR 75373–75374), on the Sunflower Crop Insurance Regulations, Amendment No. 1, did not list two North Dakota Counties which were inadvertently omitted. This notice is being published to correct that error.

EFFECTIVE DATE: February 14, 1980.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The correction is as follows:

In the list of counties where sunflower crop insurance is otherwise authorized to be offered, as appearing on page 75374 (44 FR 75374), the list under the subheading "North Dakota", is hereby corrected by inserting alphabetically the following counties:

Bottineau, Mercer.

Issued in Washington, D.C., on February 6, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80–4747 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 432

Corn Crop Insurance Regulations; Corrections

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; corrections.

SUMMARY: The final rulemaking published in the **Federal Register** on Monday, November 26, 1979 (44 FR 67361), contained an error in spelling. In addition, counties in California and Washington, where such insurance is otherwise authorized to be offered, were inadvertently omitted. This notice is being published to correct those errors.

EFFECTIVE DATE: February 14, 1980.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., telephone 202–447–3325.

The corrections are as follows:

7 CFR 432, as appearing in the center column on page 67367 (44 FR 67367), is hereby corrected by adding the following counties in California as follows:

California

Colusa, Madera, Sacramento, Solano, Yolo.

2. 7 CFR 432, as appearing in the right column on page 67367 (44 FR 67367), is hereby corrected under the subheading "Indiana" by correctly spelling "Tippecanoe".

3. 7 CFR 432, as appearing on page 67369 (44 FR 67369), is hereby corrected by adding the following counties in Washington as follows:

Washington

Benton, Spokane.

Issued in Washington, D.C., on February 5, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80–4748 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 432

Corn Crop Insurance Regulations—Amendment No. 1; Correction

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: The final rulemaking published in the **Federal Register** on Thursday, December 20, 1979 (44 FR 75375), on the Corn Crop Insurance Regulations, Amendment No. 1, contained an error in spelling. This notice is being published to correct that error.

EFFECTIVE DATE: February 14, 1980.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The correction is as follows:

The list of counties where Corn Crop Insurance is offered as found at 44 FR 75376, is hereby corrected under the subheading "Wisconsin", by correctly spelling "Oconto".

Issued in Washington, D.C., on February 5, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80–4749 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 433

Dry Bean Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: The final rulemaking published in the **Federal Register** on Thursday, November 29, 1979 (44 FR 68435), on the Dry Bean Crop Insurance Regulations, contained an error in the classes of beans insured in Idaho. This notice is being published to correct that error.

EFFECTIVE DATE: February 14, 1980.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The correction is as follows:

The table indicating the classes of beans insured under the subheading "Idaho", as appearing at 44 FR 68443, is hereby corrected to read "All Commerical classes except Lima".

Issued in Washington, D.C., on February 5, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80–4750 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 433

Dry Bean Crop Insurance Regulations—Amendment No. 1; Correction

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: The final rulemaking published in the **Federal Register** on Thursday, December 20, 1979 (44 FR 75376), on the Dry Bean Crop Insurance Regulations, Amendment No. 1, contained a typographical error with regard to the classes of beans insured in Nebraska. This notice is being published to correct that error.

EFFECTIVE DATE: February 14, 1980.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The correction is as follows:

The table indicating the classes of dry beans insured under the subheading "Nebraska", as found at 44 F.R. 75376, is hereby corrected to read "Great Northern, pink, and pinto".

Issued in Washington, D.C., on February 5, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80–4751 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 434

Tobacco (Dollar Plan) Crop Insurance Regulations; Corrections

AGENCY: Federal Crop Insurance.

ACTION: Final rule; corrections.

SUMMARY: The final rulemaking published in the **Federal Register** on Thursday, December 20, 1979 (44 FR 75356–75363), on the Tobacco (Dollar Plan) Crop Insurance Regulations, contained several errors and omissions in the "Appendix B" section. This notice

is being published to correct those errors.

EFFECTIVE DATE: February 14, 1980.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The corrections are as follows:

1. In "Appendix B" of 7 CFR Part 434, as appearing on page 75362 (44 FR 75362), the list of counties under the subheading "Georgia" is corrected by inserting alphabetically the following counties and tobacco type insured:

Brooks	14
Lowndes	14
Thomas	14

2. Under the subheading "Kentucky", as appearing on page 75363 (44 FR 75363), delete the following county and type tobacco insured:

Adair	31

3. Under the subheading "Kentucky", as appearing on page 75363 (44 FR 75363), the type tobacco insured in Warren County is corrected to read "35"

4. Under the subheading "Virginia", as appearing on page 75363 (44 FR 75363), the entry for Suffolk should be deleted and the follwing substituted therefor:

Suffolk City	11a

Issued in Washington, D.C., on February 6, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80–4752 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 435

Tobacco (Quota Plan) Crop Insurance Regulations; Corrections

AGENCY: Federal Crop Insurance.

ACTION: Final rule; corrections.

SUMMARY: The final rulemaking published in the **Federal Register** on Wednesday, December 19, 1979 (44 FR 75095–75102), on the Tobacco (Quota Plan) Crop Insurance Regulations, contained several omissions and a typographical error in the "Appendix B" section. This notice is being published to correct those errors.

EFFECTIVE DATE: February 14, 1980.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone 202–447–3325.

The corrections are as follows:

1. In "Appendix B" of 7 CFR Part 435, as appearing on page 75102 (44 FR 75102), the list of counties under the subheading "Indiana" is corrected by inserting alphabetically the following counties and tobacco type insured:

Franklin	31
Jefferson	31
Ripley	31

2. The list of counties under the subheading "North Carolina", as appearing on page 75102 (44 FR 75102), is hereby corrected by correctly spelling the world "Watauga".

Issued in Washington, D.C., on February 6, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80–4753 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 479, Amendment 1; Navel Orange Regulation 480]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 15–21, 1980, and increases the quantity of such oranges that may be so shipped during the period February 8–14, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective February 15, 1980, and the amendment is effective for the period February 8–14, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. 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 Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on February 8 and 12, 1980, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is generally strong.

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 and amendment are 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, and the amendment relieves restrictions on the handling of navel oranges. 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, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447–5975.

1. Section 907.780 is added as follows:

§ 907.780 Navel Orange Regulation 480.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period February 15, 1980, Through

February 21, 1980, are established as follows:

(1) District 1: 1,364,000 cartons;
(2) District 2: 155,000 cartons;
(3) District 3: Unlimited;
(4) District 4: 31,000 cartons.

(b) As used in this section, "handle," "District 1," "District 2," "District 3," "District 4" and "carton" mean the same as defined in the marketing order.

2. Paragraph (a) in § 907.779 *Navel Orange Regulation 479* (45 FR 8279), is hereby amended to read:

§ 907.779 Navel Orange Regulation 479.

(a) * * *
(1) District 1: 1,540,000 cartons;
(2) District 2: 175,000 cartons;
(3) District 3: Unlimited;
(4) District 4: 35,000 cartons.

* * * * *

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

Dated: February 13, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-5071 Filed 2-13-80; 12:46 pm]

BILLING CODE 3410-02-M

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7 CFR Part 907

Handling of Navel Oranges Grown in Arizona and Designated Part of California; Extension of Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action continues through July 17, 1980, the current minimum and maximum size requirement for fresh navel oranges from Arizona and designated part of California. This action is necessary to provide markets with acceptable sizes of fruit and to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: February 15, 1980, through July 17, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* Navel Orange Regulation 471 (44 F.R. 75376, 77133) limits shipments of navel oranges grown in the production area to oranges of a size not smaller than 2.32 inches in diameter and not larger than 3.70 inches in diameter during the period January 18 through February 14, 1980. Notice was published in the **Federal Register** on January 8, 1980 (45 F.R. 1621), that the Department was considering extension of the regulations currently in effect through July 17, 1980. The notice provided that all written comments in connection with the proposed regulation be submitted by February 7, 1980. None were received.

These size requirements reflect the Department's appraisal of current and prospective supply and demand factors and the need for limiting the sizes of navel oranges through July 17, 1980.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The regulation is based upon a recommendation of the Navel Orange Administrative Committee, and upon other available information.

The 1979–80 navel orange crop is forecast at 58,000 carloads, about one-third larger than the 43,496 carloads produced in 1978–79. The committee anticipates that less than 10 percent of the crop will be 3.70 inches in diameter or larger, and less than one percent smaller than 2.32 inches in diameter. The committee reports that these sizes are discounted in the markets and tend to depress overall fresh orange prices, particularly when more than ample supplies of the more desirable sizes are available.

The Committee has estimated fresh market demand at 36,500 carloads. The Crop is forecast at 58,000 carloads. Hence, it appears that more than ample supplies of the more desirable sizes, i.e., those 3.70 inches in diameter and smaller and those 2.32 inches in diameter and larger, are available to fill such demand. Oranges of the restricted sizes may be disposed of in processing and export markets.

It is concluded that the size limitations hereinafter set forth are necessary to establish and maintain orderly marketing conditions in the interest of producers and consumers pursuant to the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) notice of rulemaking concerning the regulation, with an effective date of February 15, 1980, was published in the **Federal Register**, and no objection to the regulation or effective date was received: (2) the recommendation for regulation was established at an open meeting at which interested persons were afforded an opportunity to submit their views; (3) to maintain orderly marketing conditions in the interests of growers and consumers, the regulation should be continued without disruption; and (4) the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time.

This regulation has been reviewed under the USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone 202–447–5975.

Accordingly, the provisions of section 907.771, Navel Orange Regulation 471 (44 F.R. 75376, 77122) should be and are amended to read as follows:

§ 907.771 Navel Orange Regulation 471.

(a) During the period February 15, 1980, through July 17, 1980 no handler shall handle any navel oranges grown in Districts 1, 2, 3, or 4 which are of a size larger than 3.70 inches in diameter or which are of a size smaller than 2.32 inches in diameter, such diameter to be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of oranges in any type of container may measure larger than 3.70 inches in diameter and not to exceed 5 percent, by count, of oranges in any type of container may measure smaller than 2.32 inches in diameter.

(b) As used in this section, "handle," "District 1," "District 2," "District 3," and "District 4" mean the same as defined in the marketing order.

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

Dated: February 8, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-4820 Filed 2-13-80; 8:45 am

BILLING CODE 3410-02-M

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7 CFR Part 1280

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education—Procedure for the Conduct of Referendums in Connection With Wheat and Wheat Foods Research and Nutrition Education Order

AGENCY: Agricultural Marketing Service.

ACTION: Notice of wheat end product manufacturers who have registered and are eligible to vote in a mail referendum on a Wheat and Wheat Foods Research and Nutrition Education Order.

SUMMARY: This document announces the names of wheat end product manufacturers who have registered by mail with the U.S. Department of Agriculture and who are eligible to vote in a mail referendum on an Order as authorized under the Wheat and Wheat Foods Research and Nutrition Education Act (7 USC 3401 *et seq.).* This action is necessary because the Act and Section 1280.207 of the Referendum Rules published December 14, 1979 (44 FR 72888) provide that the U.S. Department of Agriculture shall publish a list of eligible voters. The list contains the name, city, and state of the 301 eligible voters who have registered to vote in the March 17–28 mail referendum.

FOR FURTHER INFORMATION, CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447–2068.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding include: (1) Referendum Rules—issued December 11, 1979 and published December 14, 1979 (44 FR 72888), (2) Decision and Order—issued December 11, 1979 and published December 14, 1979 (44 FR 72866), and (3) Notice of Referendum—issued December 11, 1979 and published December 14, 1979 (44 FR 72884).

End product manufacturers eligible to vote in the referendum are any end product manufacturers, as defined in the Order, who registered to vote in the referendum during the January 7–February 1, 1980 registration period, who used at least 2000 hundredweights of processed wheat in 1978 in the manufacture of end products which are subject to assessment and who is not exempt from the payment of assessments as a retail baker.

The referendum rules provide that each end product manufacturer voting will be allowed one vote in the referendum whether such end product manufacturer is an individual, a partnership, or a corporation. The principal of one person (i.e. entity) one vote will apply regardless of the number of subsidiaries, affiliates, divisions or corporations an end product manufacturer has or the number or type of end products it produces.

The eligibility of any end product manufacturer to register and vote may be challenged by any person. Any challenge of an end product manufacturer's eligibility to register and vote must be made prior to the end of the voting period (March 17–28, 1980) and must include specific reasons for the challenge. Challenges should be mailed to the Referendum Agent, Room 2610—South Building, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250.

The list of wheat end product manufacturers eligible to vote in the mail referendum (March 17–28, 1980) is as follows:

A. Bread Manufacturers

A & C Italian Bakery, Opalocka, FL
Alexander Bros. Baking Co., Topeka, KS
Altstadt & Langlas Baking Company, Waterloo, IA
American Bakeries Company, Chicago, IL
American Bread Company, Nashville, TN
Amoroso's Baking Co., Philadelphia, PA
Angelo's Bakery, Anaheim, CA
Ruth Ashbrook Bakeries of Seattle, Seattle, WA
Associated Grocers, Phoenix, AZ
Awrey Bakeries, Inc., Livonia, MI
B & G Pie Co., Winston Salem, NC
Mrs. Baird's Bakeries, Inc., Fort Worth, TX
Baltic Bakery, Chicago, IL
Bamby Baking Co., Inc., Bridgeport, CT
Barsotti Bros. Bakery, Inc., Pittsburg, PA
Basque French Bakery, Fresno, CA
Bay Cities Italian Bakery, El Segundo, CA
Benson's, Inc., Athens, GA
Benvenuti's Italian Bakery, Inc., Bridgeville, PA
Best Quality Breadsticks, Corp., Brooklyn, NY
Big Bear Bakeries, Inc., Columbus, OH
Alois J. Binder Bakery, New Orleans, LA
Bishop Baking Company, Cleveland, TN
Blue Bird Baking Co., Dayton, OH
Mrs. Boehme's Holsum Bakery, Inc., San Angelo, TX
Bongianino's Bakery, Blairsville, PA
Bost Bakery, Inc., Shelby, NC
Bouyea Baking Co., Plattsburgh, NY
Brown & Greer Company, Inc., Knoxville, TN
Brown's Bakery Inc., Defiance, OH
Busken Bakery Inc., Cincinnati, OH
Butter Krust Baking Co., Inc., Sunbury, PA
Harold Freund Baking Co., City of Industry, CA
Campbell Taggart, Inc., Dallas, TX
Capital Bakers, Inc., Harrisburg, PA
Carolina Foods, Inc., Charlotte, NC
Cassone's Bakery, Inc., Stamford, CT
Holsum Bakeries, Inc., New Orleans, LA
Chateau Food Products, Inc., Cicero, IL
Cheda's Bakery, Inc., Akron, OH
Chef's Supply Inc., Chillicothe, OH
M. Cibrone & Sons, Inc., Pittsburgh, PA
Derst Baking Company, Savannah, GA
Clear Lake Bakery, Clear Lake, IA
Columbus Baking Co., Inc., Beverly, MA
Community Shops Inc., Chicago, IL
Consumers Baking Company, Springfield, MO
The Donut Shoppes, Philadelphia, PA
Corey Brothers Bakery, Hobart, IN
Cote Brothers, Inc., Manchester, NH
Country Home Bakery, Inc., Bridgeport, CT
Damascus Bakery, Inc., Brooklyn, NY
Davis Bakery Inc., East Cleveland, OH
Del Campo Baking Co., Inc., Wilmington, DE
Denk Baking Corporation, Brooklyn, NY
Winn-Dixie Stores, Inc., Jacksonville, FL
Drake's Batter Mix, Grass Lake, MI
Dreikorn's Bakery, Inc., Holyoke, MA
Edwards Bakeries Inc. of Davenport, Davenport, IA
Entenmann's Inc., Bayshore, NY
Fink Baking Corp., Long Island City, NY
Firch Baking Company, Erie, PA
Florida Bakery and Distributing Co., Greensboro, NC
Flowers Industries, Inc., Thomasville, GA
Fox's Holsum Bakery Inc., Wilmington, NC
Franco Francisco, Inc., Colma, CA
Chas. Freihofer Baking Co., Inc., Albany, NY
Frost Bakery Inc., Odessa, TX
Fuchs Baking Company, South Miami, FL
Gardner Pie Company, Barberton, OH
Gold Medal Bakery, Inc., Fall River, MA
Golden Loaf Bakery, Inc., Orlando, FL
Gonnella Baking Co., Chicago, IL
Grocers Bakery, Co., Grand Rapids, MI
Haas Baking Co., St. Louis, MO
Hardin's Bakeries Corp., Meridian, MS
The Harris Boyer Company, Johnstown, PA
The Hauswald Bakery, Glen Burnie, MD
Health Breads, Inc., Escondido, CA
Heileman Baking Co., Inc., La Crosse, WI
Heiner's Bakery, Huntington, WV
Shipley Baking Company, Fort Smith, AR
Holsum Baking Company, Pine Bluff, AR
Holsum Baking Co., Roswell, NM
Home Baking Co., Inc., Birmingham, AL
Homestead Baking Co., Inc., East Providence, RI
Ideal Baking Co., Inc., Batesville, AK
Interstate Brands Corp., Kansas City, MO
ITT Continental Baking Company, Rye, NY
Jones Bakeries, Inc., Winston-Salem, NC
Jones Tasty Baking Co., Inc., Jamestown, NY
Kahn's Bakery, Inc., El Paso, TX
Kaufmans Bakery, Inc., Buffalo, NY
Kettering Baking Company, Fairmont, WV
Keystone Bakery, Inc., Bridgewater-Beaver, PA
King Charles, Inc., Eugene, OR
Klosterman Baking Co., Cincinnati, OH
Kotarides Baking Co., Norfolk, VA
F. R. Lepage Bakery, Inc., Auburn, ME
Lender's Bagel Bakery, Inc., West Haven, CT
Lewis Bros., Bakeries, Inc., Anna, IL
Litty's Pastries, Inc., New Philadelphia, OH
Lowenberg Bakery, Inc., Ottumwa, IA
Maier's Bakery, Reading, PA
Mancini's Bakery, McKees Rocks, PA
Marathon Enterprises Inc., E. Rutherford, NJ
Marie's Sweet Shoppe's Inc., Oswego, NY
McKee Baking Company, Collegedale, TN
McReki, Inc., Denver, CO
G. Memmi & Sons Bakery, Inc., Hershey, PA
Metz Baking Company, Sioux City, IA
Jim Sutter's Bakery, Dubuque, IA
Mom's Baking Inc., Atlanta, GA
Mountain Farm Bakery, Crossville, TN
National Baking Co., Chicago, IL
Nevada Baking Company, Las Vegas, NV
New Lycoming Bakery, So. Williamport, PA
New Process Baking Company, Chicago, IL
Nancy Ann Bakery, Inc., Oklahoma City, OK
Alfred Nickles Bakery, Inc., Navarre, OH
John J. Nissen Baking Co., Portland, ME
Origena Pizza Crust of Illinois, Inc., Melrose Park, IL
Ottenberg's Bakers, Inc., Washington, DC
Ozark Empire Distributors, Rogers, AR
Pasquale Food Co., Inc., Birmingham, AL
Peggy Lawton Kitchens, Inc., East Walpole, MA

Penny Curtiss Baking Co., Inc., Syracuse, NY
Phoenix Pies, Inc., Portsmouth, OH
Pies Incorporated, Minneapolis, MN
Pioneer French Bakery, Venice, CA
Plantation Confection Co., Inc., Lake Bluff, IL
Purity Baking Company, Decatur, IL
Purity Baking Company, Charleston, WV
Quinzani Bros., Inc., Boston, MA
Redding French Bakery, Redding, CA
Reising's Sunrise Bakery, Inc., New Orleans, LA
The Reymond Baking Company, Waterbury, CT
Richmond Bakery, Inc., Philadelphia, PA
Roma Bakery, San Jose, CA
Royal Cake Company, Inc., Winston-Salem, NC
Safeway Stores, Inc., Oakland, CA
Schaefers Bakery Co., Springfield, OH
Schaller's Bakery, Inc., Greensburg, PA
Schmidt Baking Company, Baltimore, MD
Schnucks Nancy Anne Bakery, Bridgeton, MO
Schott's Bakery, Inc., Houston, TX
Schwebel Baking Company, Youngstown, OH
Snyder's Bakery, Inc., Yakima, WA
Specialty Bakers, Inc., Marysville, PA
Storck Baking Company, Inc., Parkersburg, WV
Stroehmann Brothers Company, Williamsport, PA
Superior Bakery, Inc., Cranston, RI
Swan Bros., Inc., Knoxville, TN
Table Talk, Inc., Worcester, MA
Tastycake, Inc., Philadelphia, PA
Tennessee Doughnut Corp., Nashville, TN
Terranetti's Italian Bakery, Inc., Mechanicsburg, PA
S. B. Thomas, Inc., Totowa, NJ
Thurner Bakery, Inc., Calumet, MI
Tip Top Cafe & Bakery, Inc., Lihue, HI
Tobia Bros. N.J. Sanitary Baking, West Orange, NJ
Torino Bakery, Inc., Lynwood, CA
United States Bakery, Portland, OR
Valley Baking Co., Inc., Shippensburg, PA
Van de Kamp's Holland Dutch Bakers, Inc., Los Angeles, CA
Viking Baking Co., Inc., West Hartford, CT
Virga's Pizza Crust of Virginia, Inc., Portsmouth, VA
Waldensian Bakeries, Inc., Valdese, NC
Way Baking Company, Jackson, MI
Weiman's Bakery, Inc., Richmond, VA
West Baking Company, Inc., Indianapolis, IN
Williams Bakery, Eugene, OR

B. Biscuit and Cracker Manufacturers

Mrs. Alison's Cookie Co., St. Louis, MO
Archway Cookies, Inc., Battle Creek, MI
Bake-Line Products, Inc., Des Plaines, IL
The Bakery, Inc., Toledo, OH
Chattanooga Bakery, Inc., Chattanooga, TN
Consolidated Biscuit Corp., McComb, OH
Deer Park Baking Co., Hammonton, NJ
Ding Ho Fortune Cookies, Inc., San Francisco, CA
Frito-Lay, Inc., Dallas, TX
Hammond Pretzel Bakery, Inc., Lancaster, PA
Hanover Guest Quality Foods, Hanover, PA
Hapi Products, Inc., Los Angeles, CA
Heritage Wafers, Ltd., Ripon, WI
Holland American Wafer Company, Grand Rapids, MI
Interbake Foods Inc., Richmond, VA
K & N Soft Pretzel Company, King of Prussia, PA
Keebler Company, Elmhurst, IL
Keystone Pretzel Bakery, Inc., Lancaster, PA
Lance, Inc., Charlotte, NC
The B. Manischewitz Company, Jersey City, NJ
Meyer Cookie Company, Canoga Park, CA
Midwest Biscuit Company, Burlington, IA
Johnnie W. Miller Co., Long Beach, CA
Moravian Sugar Crisp Co., Inc., Clemmons, NC
Mother's Cake & Cookie Co., Oakland, CA
Nabisco, Inc., East Hanover, NJ
Nichols Baking Company, Corona, CA
Oak State Products, Inc., Wenona, IL
Original Trenton Cracker Company, Inc., Lambertville, NJ
Party Cookies, Inc., Blue Island, IL
Richmond Baking Co., Richmond, IN
Ripon Foods, Inc., Ripon, WI
Schulze and Burch Biscuit Co., Chicago, IL
Smith Cookie Co., McMinnville, OR
Stella D'oro Biscuit Co., Bronx, NY
Tom Sturgis Pretzels, Inc., Shillington, PA
Sugar Kake Cookie, Inc., Tonawanda, NY
Sunbeam Cookies, Inc., Abilene, TX
Sunshine Biscuits, Inc., New York, NY
Trotter Soft Pretzels, Inc., Hatfield, PA
Willmar Cookie Co., Inc., Willmar, MN
Wortz Company, Fort Smith, AR

C. Pasta Manufacturers

Anthony Macaroni Co., Inc., Los Angeles, CA
Buitoni Foods Corporation, South Hackensack, NJ
Florence Macaroni Mfg. Co., Inc., Chicago, IL
Gioia Macaroni Co. Inc., Buffalo, NY
Golden Grain Macaroni Co., San Leandro, CA
Gooch Foods, Inc., Lincoln, NE
Mrs. Reis Macaroni Co., Los Angeles, CA
C. F. Mueller Company, Jersey City, NJ
National Food Products, Inc., New Orleans, LA
Noodles of China, Chicago, IL
Paramount Macaroni Mfg. Co., Inc., Brooklyn, NY
Pennsylvania Dutch Megs, Harrisburg, PA
San Giorgio Macaroni, Inc., Lebanon, PA
Ronco Foods, Memphis, TN
Ronzoni Macaroni Co., Inc., Long Island City, NY
Schmidt Noodle Mfg. Co., Inc., Detroit, MI
Star Ravioli Mfg. Co., Inc., Moonachie, NJ
The Weiss Noodle Company, Cleveland, OH
A. Zerega's Sons, Inc., Fair Lawn, NJ

D. Cereal Manufacturers

Brechet & Richter Company, Minneapolis, MN
General Foods Corporation, White Plains, NY
Malt-o-Meal Company, Minneapolis, MN
Organic Milling Company, Los Angeles, CA
The Quaker Oats Company, Chicago, IL
Ralston Purina Company, St. Louis, MO
U. S. Mills, Inc., Omaha, NE

E. Other Bread, Biscuit and Cracker, Cereal and Pasta Manufacturers, Etc.

Great Atlantic and Pacific, Tea Company, Montvale, NJ
Brownberry Ovens, Oconomowoc, WI
Borden, Inc., Columbus, OH
Kitchens of Sara Lee, Deerfield, IL
The Kroger Co., Cincinnati, OH
Lucky Stores, Inc., Dublan, CA
Mead Foods, Inc., Dallas, TX
H & S Bakery, Inc., Baltimore, MD
Arnold/Oroweat, Greenwich, CT
Pan-O-Gold Bakery Co., St. Cloud, MN
Campbell Soup Company, Camden, NJ
Richter's Bakery, San Antonio, TX
Smith's Bakery, Mobile, AL
Kraft, Inc., Glenview, IL
Karsh's Bakery, Phoenix, AR
Vons Grocery Company, El Monte, CA
Alpha Beta Company, La Habra, CA
Good Stuff Bakery, Los Angeles, CA
Ralphs Grocery Company, Los Angeles, CA
Staff of Life Bakery, Santa Cruz, CA
California Pretzel Co., Inc., Hayward, CA
Superior Bakery, Inc., North Grosvenor Dale, CT
C. E. Thompson Company, Park Ridge, IL
Mississippi Bakery, Burlington, IA
G. H. Leidenheimer Baking Company, Ltd., New Orleans, LA
The Seiler Corporation, Waltham, MA
Banquet Foods Corporation, St. Louis, MO
Durkee Foods, Thorofare, NJ
Tracy Baking Company, Norwich, NY
Bellacicco & Sons, Inc., Queens Village, NY
Utz Potato Chip Co., Inc., Hanover, PA
Ore-Ida Foods, Inc., Boise, ID
Anderson Bakery, Lancaster, PA
Rovira Biscuit Corporation, Ponce, PR
Holsum Bakers of Puerto Rico, Toa Baja, PR
Martha White Foods Inc., Nashville, TN
Burdine Industries Inc., Dallas, TX
Eunice Kings Kitchen, Inc., Sherman, TX
Fassetts Bakery, Inc., South Burlington, VT
Fox Quality Baking Co., Inc., Emporia, VA
Warwick Bakery, Newport News, VA
New Yorker Bakery, Inc., Washington, DC
Jeno's Inc., Duluth, MN
Chef Francisco, Inc., Eugene, OR
Pet Incorporated, St. Louis, MO
Sorority, Inc., Salt Lake City, UT
General Mills, Inc., Minneapolis, MN
The Pillsbury Company, Minneapolis, MN
Ener-G Foods, Inc., Seattle, WA
Gilster-Mary Lee Corporation, Chester, IL
International Multifoods, Co., Minneapolis, MN
K & B Co. Inc., Gallup, NM
Lew-Mark Baking Co., Inc., Perry, NY
Brownie Special Products, Co., Gardner, IL
Lloyd J. Harriss Pie Company, Saugatuck, MI
Castleberry's Food Company, Augusta, GA
Ogden Food Products Corporation, Rochelle Park, NJ
Wm. Underwood Company, Portland, ME
Borinquen Biscuit Corporation, Yauco, PR
Roman Meal Company, Tacoma, WA
American Licorice Company, San Francisco, CA

Signed at Washington, D.C. on February 11, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-4822 Filed 2-13-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 3

[Order No. 873-80]

Board of Immigration Appeals; Editorial Amendment

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Pursuant to a reorganization within the Department of Justice, the Board of Immigration Appeals is now subject to the general supervision of the Associate Attorney General rather than the Deputy Attorney General. This order amends the relevant section of Title 8 of the Code of Federal Regulations to reflect that change in organization.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Snider, Administrative Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530 (202-633-3452).

By virtue of the authority vested in me by 8 U.S.C. § 1103, section 3.1(a)(1) of Title 8, Code of Federal Regulations is revised to read as follows:

§ 3.1 Board of Immigration Appeals.

(a)(1) *Organization.* There shall be in the Department of Justice a Board of Immigration Appeals, subject to the general supervision of the Associate Attorney General. The Board shall exercise so much of the Attorney General's power and authority under the immigration and nationality laws as he may delegate to it. The Board shall consist of a Chairman and four other members who shall be appointed by the Attorney General and shall serve at his discretion. A vacancy, or the absence or unavailability of a Board Member, shall not impair the right of the remaining members to exercise all the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board. There shall also be attached to the Board such number of attorneys and other employees as the Associate Attorney General, upon recommendation of the Chairman, shall from time to time direct.

* * * * *

Dated: February 1, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-4827 Filed 2-13-80; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 21

Report of Defects and Noncompliance; Availability of Analysis of Public Comments

AGENCY: Nuclear Regulatory Commission.

ACTION: Analysis of Public Comment.

SUMMARY: On June 6, 1977, NRC published, as an effective rule, a new Part that requires the reporting to NRC of specific types of defects and noncompliance. In response to a number of public comments NRC published on October 19, 1978, as an effective rule, amendments to limit the types of items that are within the scope of the above reporting rule and at the same time invited comments on the amendments and on other portions of rule. The staff has reviewed the comments received in response to the request of October 19, 1978 and has prepared a document responding to the specific questions raised. That document and the letters of comment are available for inspection and copying by the public in the NRC Public Document Room, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. W. E. Campbell, Jr., Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-5913.

SUPPLEMENTARY INFORMATION: These amendments were distributed to over 10,000 organizations and individuals with a request for comment on these amendments and other portions of 10 CFR Part 21 in order to evaluate the need for any further clarifying or other changes. Written comments have been received from twenty organizations/individuals. One of these comments endorses the amendment, one recommended that the new "Employee Protection" provisions in section 210 of the Energy Reorganization Act be implemented in conjunction with further amendments to Part 21, one recommended that the scope of Part 21 be revised to exempt certain classes of material licensees, four requested additional relief from the current 10 CFR Part 21, two comments proposed amendments/implementation that would rescind the relief granted by the October 1978 amendment. The remaining eleven requested clarification/guidance, asked questions, or requested confirmation of interpretation. Seven of these eleven have interpreted, or would like to interpret, the current 10 CFR Part 21 to grant more relief.

The staff's preliminary view is that further amendments to Part 21 are not required at this time. However, we are still reviewing a request by the General Dynamics Company to (a) remove from the scope of Part 21 the licensed activity of radiography and (b) provide a specific definition of the basic components used in radiography that are within the scope of Part 21. We are also continuing to review (1) a Public Citizens Litigation Group request to revise Part 21 so that it is based on the new Section 210 entitled, "Employee Protection," which Congress recently added to the Energy Reorganization Act of 1974 and (2) information developed during the various investigations into the accident at Three Mile Island as that information relates to 10 CFR Part 21.

Dated at Bethesda, MD, the 8th day of February, 1980.

W. J. Dircks,

Acting Executive Director for Operations.

[FR Doc. 80-4816 Filed 2-13-80; 8:45 am]

BILLING CODE 7590-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration publishes amendments to its regulations pertaining to the loan policies and operations of production credit associations. Under current regulations the production credit associations may make loans for terms up to 7 years. The amendments will allow certain aquatic loans to be made on terms up to 15 years.

EFFECTIVE DATE: February 14, 1980.

FOR FURTHER INFORMATION CONTACT: Sanford A. Belden, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20578 (202-755-2181).

SUPPLEMENTARY INFORMATION: The amendments will implement the provisions of Public Law 95-443 which authorizes loans to producers and harvesters of aquatic products for terms up to 15 years. Although the current 7-year term has been adequate for most aquatic loan purposes, a longer repayment period is considered necessary for loans to finance fishing vessels and related shore facilities which involve major capital expenditures. The amendments will

authorize loans with maturities up to 15 years for these purposes. No comments were received regarding these amendments. Accordingly, Part 614 is amended by revising § 614.4110 and § 614.4200(e) to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

§ 614.4110 Production credit associations.

Each production credit association, under policies established by the bank board and procedures prescribed by the bank, may make, guarantee, or participate with other lenders in short- and intermediate-term loans and other similar financial assistance to eligible borrowers for a term not exceeding 7 years; except that loans to eligible producers or harvesters of aquatic products for the purposes enumerated in section 614.4200 (e) may be for a term not exceeding 15 years.

* * * * *

§ 614.4200 Production credit associations.

* * * * *

(e) Longer term loans may be made with maturities not to exceed 15 years to producers or harvesters of aquatic products for major capital expenditures including but not limited to purchase of vessels and equipment, major refurbishing of vessels, construction or purchase of shore facilities, and similar purposes directly related to the producing or harvesting operation.

(Sec. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.)

Donald E. Wilkinson,

Governor.

[FR Doc. 80-4734 Filed 2-13-80; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3007]

Bayer AG, 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 a diversified chemical company, located in Leverkusen, Germany, and its two American subsidiaries to divest within one year to a Commission-approved buyer, all United States assets gained through their acquisition of Miles Laboratories, Inc. Additionally, for specified time periods, the firms would be barred from acquiring, without prior Commission approval, any concern engaged in the manufacture, distribution or sale in the United States of allergenic extracts or chemically treated diagnostic reagent strips used for in vitro quantitative urinalysis.

DATES: Complaint and order issued January 15, 1980.[1]

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

SUPPLEMENTARY INFORMATION: On Tuesday, August 21, 1979, there was published in the **Federal Register**, 44 FR 48976, a proposed consent agreement with analysis In the Matter of Bayer AG, a corporation, Rhinechem Corporation, a corporation, and Miles Laboratories, Inc., (formerly Rhinechem Laboratories, 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 Part 13, are as follows: Subpart-Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; (15 U.S.C. 45, 18))

Carol M. Thomas,

Secretary.

[FR Doc. 80-4686 Filed 2-13-80; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-3006]

Montgomery Ward & Co., 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 Chicago, Ill. firm, engaged in the operation of a chain of department and catalog stores, to cease making unsubstantiated safety-related claims regarding the installation, operation or maintenance of wood-burning heaters and Franklin fireplaces; or any representation that contradicts the requirements of prevailing model building or fire protection codes. The company is required to include in its catalogs a conspicuous notice providing minimum distances from adjacent combustible walls at which heating devices can be safely and properly installed; and advising consumers that such information has been previously misstated; that improperly installed heating devices are fire hazards and should be immediately relocated; and that Ward, at its own expense, will reinstall improperly installed heaters and provide shields for previously purchased Franklin fireplaces. Additionally, the company has six months in which to revise and reprint promotional and instructional material as required to comply with the terms of the order, and provide its sales personnel with corrected installation information.

DATES: Complaint and order issued January 24, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Tuesday, August 28, 1979, there was published in the **Federal Register**, 44 FR 50353, a proposed consent agreement with analysis In the Matter of Montgomery Ward & Company, Incorporated, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were 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 Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly:

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

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

§ 13.85 Government approval, action, connection or standards; 13.85–60 Standards, specifications, or source; 13.85–65 States; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; 13.170–40 Fire-extinguishing or fire resistant; § 13.195 Safety; 13.195–60 Product; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.245 Specifications or standards conformance; § 13.247 Statutes and regulations. Subpart-Corrective Actions and/or Requirements: 13.533–10 Corrective advertising; 13.533–20 Disclosures; 13.533–37 Formal regulatory and/or statutory requirements; 13.533–45 Maintain records; 13.533–55 Refunds, rebates and/or credits; 13.533–66 Research program(s). Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1645 Government standards or specifications; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

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

Carol M. Thomas,

Secretary.

[FR Doc. 80-4685 Filed 2-13-80; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-3005]

Home Centers, 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 two Tallmadge, Ohio firms engaged in the sale and distribution of retail general merchandise to cease representing price reductions in product advertising, unless comparison prices are bona fide, and duration of advertised offer is disclosed; or misrepresenting, in any way, that their products are being sold at a savings to consumers.

DATES: Complaint and order issued December 18, 1979.[1]

FOR FURTHER INFORMATION CONTACT: Paul E. Eyre, Acting Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500-Mall Bldg., 118 St. Clair Ave., Cleveland, Ohio 44114, (216) 522–4207.

SUPPLEMENTARY INFORMATION: On Monday, August 13, 1979, there was published in the **Federal Register**, 44 FR 47346, a proposed consent agreement with analysis In the Matter of Home Centers, Inc., a corporation, and Home Centers of Cleveland, 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.

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 Part 13, are as follows: Subpart—Advertising falsely or misleadingly: § 13.155 Prices; 13.155–15 Comparative; 13.155–100 Usual as reduced, special, etc.; § 13.240 Special or limited offers. Subpart—Corrective actions and/or requirements: 13.533–45 Maintain records. Subpart—Misrepresenting oneself and goods—goods: § 13.1747 Special or limited offers.—Prices: § 13.1785 Comparative. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1895 Scientific or other relevant facts. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2070 Special or trial offers, savings and discounts.

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

Carol M. Thomas,

Secretary.

[FR Doc. 80-4684 Filed 2-13-80; 8:45 am]

BILLING CODE 6750-01-M

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242, 244, and 250

[Docket No. R-80-768]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The change in the regulations increases the FHA maximum interest rate on insured home and project mortgage loans and the maximum allowable finance charge on Title I property improvement, mobile home loans, and combination and mobile home lot loans. The change is necessitated by the current realities of high discounts and declining availability of FHA financing. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with other competitive market rates and help assure adequate supply of FHA financing.

EFFECTIVE DATE: February 11, 1980.

FOR FURTHER INFORMATION CONTACT: John Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (202–426–4667).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on FHA mortgage insurance programs has been raised from 11.50 percent to 12.00 percent for home programs and from 11.00 percent to 12.00 percent for the project programs. Maximum finance charges on mobile home loans has been raised from 13.50 percent to 14.50, and the finance charges on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been raised from 12.00 percent to 14.00 percent. The maximum charge on property improvement loans has been raised from 13.00 percent to 14.00 percent.

The Secretary has determined that such changes are immediately necessary

to meet the needs of the market, and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart A—Eligibility Requirements—Property Improvement Loans

1. In § 201.4 paragraph (a) is amended to read as follows:

§ 201.4 Financing charges.

(a) The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed a 14.00 percent annual rate.

* * * * *

Subpart B—Eligibility Requirements—Mobile Home Loans

1. In § 201.540 paragraph (a) is amended to read as follows:

§ 201.540 Financing charges.

(a) The maximum pemissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 14.50 percent simple interest per annum.

* * * * *

Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

1. In § 201.1511 paragraph (a) is amended to read as follows:

§ 201.1511 Financing charges.

(a) The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with a combination mobile home and lot loan or mobile home lot loan transaction shall not exceed: (1) 14.00 percent per annum.

* * * * *

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In § 203.20 paragraph (a) is amended to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after February 11, 1980.

* * * * *

2. In § 203.74 paragraph (a) is amended to read as follows:

§ 203.74 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.00 percent per annum with respect to loans insured on or after February 11, 1980.

* * * * *

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

Subpart A—Eligibility Requirements

1. Section 205.50 is amended to read as follows:

§ 205.50 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 11, 1980.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

1. In § 207.7 paragraph (a) is amended to read as follows:

§ 207.7 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 11, 1980.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

1. In § 213.10 paragraph (a) is revised to read as follows:

§ 213.10 Maximum interest rate.

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, or the lender and the borrower, which rate shall not exceed 12.00 percent per annum with respect to mortgages or supplementary loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 11, 1980.

* * * * *

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

1. In § 213.511 paragraph (a) is amended to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after February 11, 1980.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart C—Eligibility Requirements—Projects

1. In § 220.576 paragraph (a) is amended to read as follows:

§ 220.576 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.00 percent per annum with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 11, 1980.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

1. In § 221.518 paragraph (a) is amended to read as follows:

§ 221.518 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 11, 1980. Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

1. In § 232.29 paragraph (a) is amended to read as follows:

§ 232.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 11, 1980.

* * * * *

Subpart C—Eligibility Requirements—Supplemental Loans To Finance Purchase and Installation; Fire Safety Equipment

2. In § 232.560 paragraph (a) is amended to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.00 percent per annum, with respect to loans insured on or after February 11, 1980.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

1. In § 234.29 paragraph (a) is amended to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgagee shall bear interest at the rate agreed upon by the mortgage and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after February 11, 1980.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart D—Eligibility Requirements—Rehabilitation Projects

1. In § 235.540 paragraph (a) is amended to read as follows:

§ 235.540 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages insured on or after February 11, 1980.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Subpart A—Eligibility Requirements for Mortgage Insurance

1. In § 236.15 paragraph (a) is amended to read as follows:

§ 236.15 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 11, 1980.

* * * * *

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Subpart A—Eligibility Requirements

1. Section 241.75 is amended to read as follows:

§ 241.75 Maximum interest rate.

The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.00 percent per annum with respect to loans insured on or after February 11, 1980. Interest shall be payable in monthly installments on the principal then outstanding.

* * * * *

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Subpart A—Eligibility Requirements

1. In § 242.33 paragraph (a) is amended to read as follows:

§ 242.33 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 11, 1980. Interest shall be payable in monthly installments on the principal then outstanding.

* * * * *

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

Subpart A—Eligibility Requirements

1. In § 244.45 paragraph (a) is amended to read as follows:

§ 244.45 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 11, 1980.

* * * * *

PART 250—COINSURANCE FOR STATE HOUSING FINANCE AGENCIES

Subpart C—Eligibility Requirements Applicable to All Mortgages To Be Coinsured

1. In § 250.318 paragraph (a) is amended to read as follows:

§ 250.318 Maximum mortgage interest rate.

(a) On and after February 11, 1980 the maximum interest rate on which commitments to insure shall be issued shall not exceed 12.00 percent per annum.

* * * * *

(Section 3(a), 82 Stat. 113; 12 USC 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 USC 3535(d)).

Issued at Washington, D.C., February 7, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80–4718 Filed 2–13–80; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 818

Financial Responsibility of Air Force Military Members; Standards

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising Part 818 of Chapter VII, Title 32, of the Code of Federal Regulations. The revision establishes standards for considering the financial responsibility of Air Force military members. It states the conditions a complainant must meet before requests for assistance in processing debt complaints are accepted and tells how to process accepted requests. It establishes the standards for Air Force military members regarding the support of their dependents and the measures of support expected. Procedures for processing paternity claims made against Air Force military members are defined. It implements DOD Directives 1344.3, November 19, 1966; 1344.7, July 1, 1969; and 1344.9, May 7, 1979.

EFFECTIVE DATE: July 1, 1977 and Change No. 1, September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. R. R. Griffith, telephone (512) 657–3578.

SUPPLEMENTARY INFORMATION: Part 818 of Subchapter B, Chapter VII, Title 32, of the Code of Federal Regulations has been revised. The revision includes policy concerning debt complaints, dishonored checks, dependent support complaints, paternity claims, Chapter XIII Wage Earner Plan and Bankruptcy; requirements concerning State laws which prohibit the creditor from contacting the debtor's empoloyer; includes garnishment information; explains responsibilities of each base level agency; and provides suggested responses to paternity claims.

Accordingly, Title 32 of the Code of Federal Regulations is amended by revising Part 818 to read as follows:

PART 818—FINANCIAL RESPONSIBILITY

Sec.
818.0 Purpose.

Subpart A—General Information

818.1 Air Force policy.
818.2 Indebtedness.
818.3 Dependent support.
818.4 Paternity.

Subpart B—Responsibilities

818.5 Air Force member.
818.6 Commanders.
818.7 Legal assistance officer.
818.8 Director of Personnel (DP).
818.9 Comptroller (AC).
818.10 Office of Information (OI).
818.11 Air Training Command (ATC).

Subpart C—Procedures

818.12 Processing indebtedness complaints.
818.13 General requirements for accepting debt complaints.
818.14 Action required if complaint is received.
818.15 Responding to dependent support and indebtedness complaints.
818.16 Responding to paternity claims.
818.17 Bad check procedures.
818.18 High-level inquiries.
818.19 Certificate of compliance.
818.20 Standards of fairness.

Authority: Sec 8012, 10A Stat 488; Sec 8012, 70A Stat 488; 10 U.S.C. 8012.

Note: This part is derived from Air Force Regulation 35–18, July 1, 1977 and Change 1, September 7, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 818.0 Purpose.

This part establishes standards for considering the financial responsibility of Air Force military members. It states conditions a complainant must meet before request for assistance in processing debt complaints are accepted and explains how requests are processed. It establishes the standards for Air Force military members regarding the support of their dependents; defines generally who is a dependent and establishes the measures of support expected. This part outlines procedures for processing paternity claims made against Air Force military members. It also provides guidance for base-level information, education, and counseling programs designed to enhance management of personal finances. This part implements DOD Directives 1344.3, November 19, 1966; 1344.7, July 1, 1969; and 1344.9 May 7, 1979.

Subpart A—General Information

§ 818.1 Air Force policy.

The Air Force expects its members to pay their debts on time. Within the limits of available resources, the Air Force provides financial management information, opportunities for education, and personal counseling designed to enhance management of personal finances, and takes administrative or disciplinary action in cases of continued financial irresponsibility. Such action is taken to improve discipline and maintain the standards of conduct expected of Air Force personnel, but cannot be used to enforce private civil obligations.

§ 818.2 Indebtedness.

(a) *Air Force Enforcement of Private Obligations.* The Air Force does not arbitrate disputed debts, admit or deny whether or not the complaints are valid, or confirm the liability of its members. Under no circumstances does the Air Force communicate to complainants, whether any action has been taken against members as a result of complaints. Except for debts owed to the Federal Government, including its instrumentalities (for example, nonappropriated fund activities), the Air Force is not authorized to require a member to pay a private debt or to use any part of his or her earnings to pay the debt, even though the indebtedness may have been reduced to judgment by a civil court. The enforcement of private obligations of Air Force members is a matter for civil authorities. (See §§ 818.2(d) and 818.3(b).)

(b) *State Laws Prohibiting Creditors From Contacting a Debtor's Employer.* Some States have enacted laws which prohibit creditors from contacting a debtor's employer regarding indebtedness or communicating facts of indebtedness to an employer unless certain conditions are met. The conditions which must be met to remove this prohibition are generally such things as reduction of a debt to judgment or obtaining written permission of the debtor. In States having such laws, processing debt complaints is not extended to creditors who have not met the requirements of the State statute. Therefore, creditors attempting to avail themselves of the processing privilege must first certify that they comply with the law of the State where the debtor resides regarding contact with a debtor's employer (818.19). Commanders must advise creditors that this policy has been established to avoid inadvertent violation of the State law by a creditor. A similar practice must be inaugurated in any State enacting a similar law with respect to debt collection. Commanders should contact their staff judge advocates (SJAs) for a determination of the local law.

(c) *Processing Debt Complaints Based on Bad Checks and Similar Instruments.* Every check, draft, or order for the payment of money drawn on any bank or other depository carries with it a representation that the instrument will be paid in full when presented. Negotiating bad checks is, therefore, considered a serious matter which (depending on the circumstances) may result in administrative or punitive

action against the member. Whether or not such action is taken, a check which is dishonored for any reason remains evidence of an indebtedness until redeemed by the member. When a commander receives a complaint from a person, firm, agency, or instrumentality that a member has written a bad check, procedures in § 818.17 apply.

(d) *Bankruptcy.* The Department of the Air Force policy concerning bankruptcy petitions by military personnel is one of strict neutrality. Bankruptcy is considered to be a right granted by statute which is available to military personnel the same as any other citizen. No adverse action may be taken against a member of the Air Force either for filing a petition in bankruptcy or because of a discharge in bankruptcy. Sometimes the underlying facts may involve mismanagement of personal affairs or dishonorable failure to pay debts which are factors that can form the basis for adverse action against a member of the Air Force, but neither filing a petition (for bankruptcy or for payments out of future earnings) nor a discharge in bankruptcy can, of themselves, be considered "mismanagement" or "dishonorable." Commanders should seek information and advice from the office of the SJA that is considering the facts of each individual case before providing financial counseling for members considering bankruptcy. Further, the Air Force recognizes and complies with decrees in bankruptcy cases.

(e) *Chapter XIII, Wage Earner Plans.* Federal laws provide for protecting and relieving wage earners according to chapter XIII of the Bankruptcy Act (11 U.S.C. 1001–1, et seq.). Proceedings filed under chapter XIII are not bankruptcy and are not to be construed as such. Chapter XIII, Wage Earner Plans, also provides procedures for paying debts under the supervision of the U.S. Federal District Court that apply and provides protection for both debtors and creditors. Commanders should consult with the SJA to get sufficient information and advice before counseling members of their command concerning chapter XIII entitlements or advisability. They must know the differences between "bankruptcy" and "wage earner plans" in order to prevent infringement on the rights of the individual.

(f) *Pub. L. 95–109.* Pub. L. 95–109 provides that contact by a debt collector with third parties, such as commanding officers, is prohibited without the prior consent of the debtor, or without a court order. Creditors are generally exempt from Pub. L. 95–109, but only when they collect on their own behalf.

§ 818.3 Dependent support.

The Air Force expects its members to provide regular and adequate support, either direct or in kind, based on the needs of the dependents and the ability of the member to provide. The Air Force has no authority to unilaterally deduct money from a member's pay for the benefit of dependents; however failure to comply with Air Force policy becomes a proper subject of command consideration for disciplinary or administrative action.

(a) *Basic Allowance for Quarters (BAQ).* Under the provisions of the DOD Military Pay and Allowances Entitlements Manual (DODPM), paragraph 30236c, BAQ is not payable for a dependent whom a member refuses to support. Members are informed of this provision and advised that refusal or failure to support dependents may require administrative termination of BAQ entitlement, at the "with dependent" rate, effective the first day of the month a complaint is received and has been determined valid. The BAQ is not intended to be an accurate measure of adequate dependent support nor does the administrative termination of the BAQ relieve a member of the responsibility to provide dependent support.

(b) *Garnishment.* In accordance with 42 U.S.C. 659, the Air Force complies with valid garnishment or attachment orders issued by Federal or State courts of competent jurisdiction for enforcing child support and alimony obligations of military members. The State law that applies for such proceedings determines the legal procedure to be used by plaintiffs and the extent to which the primary defendant's pay will be affected. Any challenge to the jurisdiction of the court or decree rests with the member, not the Air Force.

§ 818.4 Paternity.

If paternity is established either by admission or by judicial decree, Air Force members are expected to comply with dependent support policy stated in § 818.3.

(a) *Paternity Disputes.* Allegations of paternity against members who are on active duty are sent to the individual concerned by the member's commander. The Air Force has no authority to judge paternity claims made against Air Force personnel. If the parties concerned cannot arrive at a decision as to paternity, only a court of competent jurisdiction can judge the dispute.

(b) *Court Order.* If a judicial order or decree of paternity or support is rendered by a United States or foreign court of competent jurisdiction against such a member, the member is encouraged to give the necessary financial support to the child and take any other appropriate action. The Air Force has no authority to relieve personnel of court-ordered obligations. Personnel must get relief through a judicial system of competent jurisdiction.

Subpart B—Responsibilities

§ 818.5 Air Force member.

Each Air Force member is expected to keep reasonable contact with creditors and dependents in an effort to minimize inquiries, claims, and complaints that are sent to the Air Force. The obligations which follow can be diminished or relieved by order or decree of a court of competent jurisdiction.

(a) *Financial Indebtedness.* Air Force military members are expected to take care of their "just financial obligations" on time. A "just financial obligation" refers to a legal debt acknowledged by the military member in which there is no reasonable dispute as to the facts or the law; or one reduced to judgment that conforms to the Soldiers' and Sailors' Civil Relief Act (50 U.S.C. appendix 501, et seq.), if applicable.

(b) *Dependent Support.* Air Force members are expected to support their dependents according to Air Force policy (see § 818.3).

(1) *Spouse and Children.* Each Air Force member is expected to provide support in an amount, or of a kind, bearing a reasonable relation to the needs of the spouse and children and the ability of the member to provide. Consideration should be given to the needs of the family (for example, lodging, food, clothing, and miscellaneous needs).

(2) *Former Spouse.* Each Air Force member is expected to comply with the order or decree of a civil court of a State, territory, or possession of the United States, or the District of Columbia, requiring the payment of alimony, child support, or similar obligations. Members are expected to fully comply with orders or decrees involving the division of property arising from the termination of the husband and wife relationship.

(3) *Parents.* Each Air Force member is expected to provide support to parent (or parents) to the extent required by the statute or agreement from which the obligation arose.

(4) *Paternity.* If paternity is established either by judicial decree or by admission, each member is expected

to provide the necessary finanical support to the child.

(5) *Arrearages.* Each Air Force member is expected to liquidate dependent support arrearages, whether resulting from not complying with a court order or decree or failure to provide adequate support in the past.

§ 818.6 Commanders.

Unit commanders are responsible for counseling members regarding Air Force policy (see § 818.1) responding to complaints; and keeping order and discipline by dealing with violations, especially repeated violations, and incidents of fraud or deceit through appropriate administrative or punitive means.

(a) *Counseling.* (1) Applying the Air Force policy to the facts of the situation, each member is advised of what actions are necessary to comply with the policy. First sergeants assist commanders in counseling individuals with financial problems.

(2) Commanders should encourage individuals to contact the comptroller for budget counseling, working out debt liquidation plans, obtaining consumer protection advice, etc.

(3) In paternity cases, and when requested by the member, the commander should approve leave if the parties desire to marry; no legal obstacle exists to the marriage; and paternity has been established or admitted.

(b) *Referral.* Each member is advised of the legal assistance program and of counseling available from the on-base credit union. The commander or the first sergeant should encourage the member to attend financial management seminars or workshops if they are available through the base education officer.

(c) *Administrative or Disciplinary Action.* In cases of continued financial irresponsibility, fraud, deceit, or criminal conduct, unit commanders may start administrative or disciplinary action to improve discipline and to keep the standards of conduct expected of Air Force personnel.

(1) When it is determined that administrative termination of BAQ at the "with dependent" rate is required, the member's servicing Accounting and Finance Officer (AFO) will be advised in writing. Furnish member's name, social security account number (SSAN), organization, and a statement that the member has refused or failed to support the dependents on whose behalf BAQ is being received. Cite the DODPM, paragraph 30236c, and request administrative termination of BAQ entitlement on the proper effective date (see § 818.3).

(2) Unit commanders may issue a letter of reprimand; use the Control Roster and Unfavorable Information File (UIF); take action under Uniform Code of Military Justice (UCMJ), as appropriate; or start discharge action.

(d) Response to Complainant. A complainant is entitled to a courteous response from the commander. Except in cases of nonsupport complaints, the response neither admits, nor in any way implies, an admission of liability of the member. Neither does it report any action taken against the member as a result of the complaint. The commander does not act as intermediary for either party nor give that impression in the response.

§ 818.7 Legal assistance officer.

Generally, commanders and members faced with problems or potential problems concerning dependent support, indebtedness, or consumer protection are encouraged to seek the advice of the office of the SJA.

(a) The Legal Assistance Officer, according to Part 818b of this chapter.

(1) Explains the applications of Air Force policy as it applies to individual cases and provides guidance concerning compliance with Federal, State, and local laws (for example, chapter XIII of the Bankruptcy Act; Truth-in-Lending Act; Garnishment; and Soldiers' and Sailor' Relief Act).

(2) If appropriate, advises the member to consult with a civilian attorney or refer the member to Federal, State, or local consumer agencies (for example, the Federal Trade Commission, Better Business Bureau, and Chamber of Commerce).

(b) In general, the commander concerned should seek advice from the servicing SJA.

(c) The SJA coordinates on responses to all high-level, executive, and congressional inquiries.

§ 818.8 Director of Personnel (DP).

The DP advises commander of Air Force Policy and explains the information and education resources available to enhance management of personal finances. Additional visibility for financial management can be provided by requesting that the base library be well stocked with budgeting and money management publications, occasionally highlighted in a special display. Financial periodicals and consumer information publications would be particularly useful. The DP provides monthly statistics, furnished by the Consolidated Base Personnel Office (CBPO) Special Actions Unit, to wing, base, and unit commanders so that management action can be taken to reduce indebtedness and dependent support complaints.

(a) *CBPO Quality Force, Special Actions Unit (DPMQA).* CBPO/DPMQA processes debt and dependent support complaints according to this part. If requested by unit commanders, information in the UIF is provided by CBPO/DPMQA. Statistics showing the number of complaints processed for each unit is provided to the DP by the 10th of each month, showing the number of open cases which require further action by unit commanders and the number of cases that have resulted in information being added to the UIF.

(b) *Education Office.* If directed by the base commander, the education office may offer seminars, or at local option, lectures or workshops, on financial matters. Publicize the seminars widely before they begin and during their duration. Seminars may be led by base experts on an additional duty basis or by civilian instructors through Education Services. Scheduling of seminars could be during off-duty time or on a release-from-duty basis. Sessions are recommended for 1½ to 2 hours, once a week. If the local option is exclusively for off-duty attendance, it is recommended that the class meet once in the afternoon and once in the evening to facilitate attendance by shift workers. U.S. Air Force personnel and their spouse should be invited to attend. Attendance should be voluntary, both for the total course and individual classes, except that unit commanders may privately require attendance by military personnel who have shown financial irresponsibility. Such required attendance should be kept confidential to avoid embarassment to the individual. Repeat the seminar series as often as needed for the local environment, perhaps 3 to 4 times during the first year, and 1 or 2 times each year after that. Special seminar sessions will be scheduled to train volunteer budget counselors. Instruction should focus on such subjects as counseling techniques, budget preparation procedures, credit shopping, financial situation analysis, etc. Professional assistance in preparing lesson plans may be available from local credit unions or other State and local associations.

§ 818.9 Comptroller (AC).

The Base Comptroller, in coordination with DP, will establish a three track Personal Financial Responsibility Program including education, information and consultant services.

(a) AC will coordinate with the education office to establish courses. See § 818.8(b).

(b) AC will solicit information articles and COST Fact Sheets for local distribution and publication in base media. See § 818.10.

(c) The Base Comptroller will establish a consultant function at base level to assist personnel in analyzing problem areas, developing budgets, formulating debt liquidation plans, obtaining consumer protection advice, etc.

(1) Military members will be solicited to serve as volunteer counselors on a voluntary, part-time basis. The base Junior Officer Council should be an excellent source of volunteer counselors.

(2) Counselors will attend training seminars sponsored by the base education office prior to their assumption of any consultant duties.

(3) The consultant program should emphasize voluntary contact and participation, although members may be referred for assistance by commanders, first sergeants or supervisors. Emphasis should be placed on the preventive nature of the program—that is, identification and resolution of financial questions before they become serious problems and prevention of existing difficulties from recurring. One contact may be sufficient, or a series of counseling sessions may be required. Spouses should be encouraged to attend these sessions whenever possible to secure their full understanding and commitment to resolution of the problem.

(4) The consultant should work jointly with the counselee(s) to analyze each financial situation, pinpoint problem areas, formulate a budget and, if required, a proposed payment plan. The member must be an equal participant in this effort; personal commitment to a realistic budget is an essential element for sucessful resolution of any financial problem. The counselor may assist the member in contacting creditors, but must ensure that all creditors are aware that neither the Air Force nor the consultant service will assume liability for debts or collect payments.

(d) AFO. The AFO advises members on dependent support allotment procedures (for example, payment of rent IAW DODPM, paragraph 60202), entitlement to BAQ. Procedures involving garnishment of pay are coordinated with SJA. The AFO also advises members on the procedures and relative merits of the participation in the Checks to Financial Organization (CTFO) Program.

§ 818.10 Office of Information (OI).

The OI reviews and edits locally developed COST Fact Sheets and "Inflation Fighters" articles. Outstanding items which have wide application should be distributed for reprint through the Air Force news Service.

§ 818.11 Air Training Command (ATC).

ATC includes a comprehensive block of instruction on personal commercial affairs in its basic military training program, undergraduate pilot and navigator training, and other courses in which personnel receive initial active duty training. Such instructions include, but are not limited to, the protection and remedies offered consumers under the Truth-in-Lending Act, insurance, Government benefits, CTFO, savings and budgeting, the policies of this part, Part 818a of this chapter, and the desirability of seeking legal counsel before making any substantial loan or credit commitments.

Subpart C—Procedures

§ 818.12 Processing indebtedness complaints.

Processing debt complaints by CBPO/DPMQA is not extended to creditors who have not made a bona fide effort to collect the debt directly from the military member, whose claims are patently false and misleading, or are in violation of State laws concerning usury and debt collection practices. Claimants desiring to contact a military member about an indebtedness may write to the Air Force Worldwide Locator, HQ AFMPC/MPCD003, Randolph AFB TX 78148, enclosing $2 for the service as provided in Part 806 of this chapter.

(a) *Armed Forces Disciplinary Control Board.* If a complainant appears to have engaged in usurious, fraudulent, misleading, or deceptive business practices, the commander reports the situation to the Armed Forces Disciplinary Control Board according to AFR 125–11, Armed Forces Disciplinary Control Board and Off-installation Military Enforcement.

(b) *Denial of the Processing Privilege.* Processing complaints are permanently denied by AFMPC/MPCAS if: a complainant has been notified of the requirements of this part and refuses or repeatedly fails to comply with them; or if a complainant (no matter what the merits of the claim) has clearly shown that there is an attempt to make unreasonable use of the processing privilege. Abuses are documented and reported by the CBPO to HQ AFMPC/MPCAS, Randolph AFB TX 78148. AFMPC advises all CBPOs of complainants who have been denied further processing privileges.

§ 818.13 General requirements for accepting debt complaints.

Requirements in this section do not apply to claims by Federal, State, or Municipal Government, nor to those creditors not otherwise subject to Regulation Z, the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations (CFR) 226 (for example, grocery stores, utilities, etc.).

(a) Full Disclosure and Standard of Fairness:

(1) The Truth-in-Lending Act (15 U.S.C. 1601, et seq.) prescribes the general disclosure requirements which must be met by those offering or extending consumer credit, and Regulation Z, published by the Federal Reserve Board (12 CFR Part 226), and the specific disclosure requirements for both open-end and installment credit transactions. Instead of Federal Government requirements, State regulations apply to credit transactions if the Federal Reserve Board determines that the State regulations impose substantially similar requirements and provide adequate enforcement measures.

(2) Banks and credit unions operating on military installations must conform to the Standard of Fairness stated on page 1 of AF Form 459, Application/Contract for Personal Credit, before executing the loan or credit agreement.

(b) Certification of Compliance:

(1) Creditors subject to Regulation Z of the Federal Reserve Board (12 CFR Part 226), and assignees claiming thereunder, must send with their request for debt processing assistance on executed copy of the Certificate of Compliance and a true copy of the general and specific disclosures provided the military member as required by Pub. L. 90–321 (15 U.S.C. 1601). Requests which do not meet these requirements will be returned without action to the claimant.

(2) A creditor not subject to Regulation Z (for example, grocery stores, utilites, etc.), must send with their request for assistance a certification that neither interest, finance charge, nor other fee is in excess of that permitted by the law of the State in which the obligation was incurred.

(3) A foreign-owned company having a complaint must send with its request a true copy of the terms of the debt (English translation) and must certify its subscription to the Standards of Fairness, AF Form 459, page 1.

(c) Previous Efforts To Resolve the Matter. The complainant must show that an attempt has been made to adjust the debt by direct contact with the member.

(d) Nonconforming Complaints. Debt complaints that do not comply with the

requirements of this subpart are returned to the complainant with an explanation of the deficiency. Complainants are advised to send their claim in writing.

§ 818.14 Action required if complaint is received.

(a) CBPO special actions unit (CBPO/DPMQA), on receipt:

(1) Sends a debt complaint that meets the requirement of § 818.13 to the immediate commander of the individual concerned.

(2) Returns a debt complaint that does not meet the requirements of § 818.13 to the complainant.

(3) Sends dependent support and paternity complaints to the immediate commander of the individual concerned along with information recorded on the member's DD Form 93, Record of Emergency Data.

(4) Returns all complaints concerning a retired member or an individual with no known military status to the complainant.

(5) Sends all complaints concerning a member released from active duty and assigned to the Reserve Forces to the Air Reserve Personnel Center (ARPC), 7300 E First Avenue, Denver, CO 80280, and advises the complainant of the referral.

(6) Sends all complaints concerning a reassigned member to the current unit of assignment and advises the complainant of the referral.

(b) The commander on receipt of the complaint:

(1) Direct from the complainant, sends the complaint, if other than a paternity or dependent support claim, to CBPO/DPMQA for action under 818.13 and this paragraph.

(2) From CBPO/DPMQA, thoroughly reviews all the available facts surrounding the transaction forming the basis for the complaint. These facts may be obtained from the complainant's correspondence and the member concerned. Privacy Act warnings and Article 31, UCMJ rights, if appropriate, should be given. A review should be made of the member's financial situation over the period in which the obligation is complained.

(3) If it has been determined that an inquiry should be made part of the UIF, AFR 35–32, Unfavorable Information Files and Control Rosters, paragraphs 4 and 7 apply.

(4) Provides CBPO/DPMQA a copy of replies to all complaints.

§ 818.15 Responding to dependent support and indebtedness complaints.

Unit commanders respond to all complainants advising them of the appropriate Air Force policy and that the member has been advised accordingly. Except in complaints of nonsupport, commander's response does not undertake to arbitrate any disputed debt or allegation, or to admit or deny the validity of the claim. Under no circumstances does it indicate whether any action has been taken against the member as a result of the complaint. Commanders provide a copy of the response to CBPO/DPMQA.

§ 818.16 Responding to paternity claims.

(a) *Active Duty Members.* The member should be informed of the inquiry and the response and urged to obtain legal assistance for guidance (including and explanation of sections of the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App 501, et seq, if appropriate). When a communication is received from a judge of a civilian court concerning the availability of personnel to appear at an adoption hearing, where it is alleged that an active duty member is the father of an illegitimate child, then the reply shall state that:

(1) Due to military requirements, the member cannot be granted leave to attend any court hearing until *(date)*, or

(2) A request by the member for leave to attend an adoption court hearing on *(date)*, if made would be approved, or

(3) The member has stated in a sworn written statement that he is not the natural parent of the child, or

(4) Due to the member's unavailability caused by a specific reason, a completely responsive answer cannot be made.

(b) *Members Not on Active Duty.* Allegations of paternity against members of the Air Force who are not on active duty are sent to ARPC, 7300 E First Avenue, Denver, CO 80280, and the complainant advised of the referral. If the member is a mobilization augmentee, ARPC sends the complaint to the commander for inquiry, counseling, and reply. ARPC handles other complaints by direct contact with the member in the same manner as active duty members.

(c) *Former Members and Retired Personnel.* When allegations of paternity against former members of the Air Force (or a communication from a judge of a civilian court concerning the adoption of an illegitimate child) are received, the claimant must be informed of the date of discharge and advised that the individual concerned is no longer a member of the Air Force and therefore is not under their jurisdiction. In addition, the last known address of the former member must be furnished to the requestor when there is a showing of compelling circumstances affecting the health or safety of an individual, as contemplated by the Privacy Act of 1974, 5 U.S.C. 552a(b)(8), and if the request is supported by a certified copy of either:

(1) A judicial order or decree of paternity or support rendered against a former member by a United States or foreign court of competent jurisdiction; or

(2) A document which establishes that the former member has made an official admission or statement acknowledging paternity or responsibility for support of a child before a court of competent jurisdiction, administrative or executive agency, or official authorized to receive it; or

(3) A court summons, judicial order, or similar document of a court within the United States in a case concerning the adoption of an illegitimate child; wherein the former serviceman is alleged to be the father; or

(4) In cases where the claimant, with the corroboration of a physician's affidavit, alleges and explains an unusual medical situation which makes it essential to get information from the alleged father to protect the physical health of either the prospective mother or the unborn child.

§ 818.17 Bad check procedures.

The commander responds to all dishonored check complaints. If the commander receives a complaint of a check which is:

(a) *Dishonored Through Inadvertency.* When advised of a check which is not honored because of bank or Government error, because of failure to date the check, incompatibility or illegibility of amounts shown on the check, or lack of or illegible signature, the commander counsels the member to redeem the check within 5 days of notification of dishonor. If redeemed, no further administrative action by the commander is required.

(b) *Dishonored Through Suspected Criminal Conduct.* When advised of a check which is dishonored because of a suspected criminal conduct by the member, the commander requests the member's UIF, consults with SJA, and counsels the member regarding Air Force policy (see § 818.2(c)). When there is suspected criminal conduct by a member involving a check, the commander should consider action under the UCMJ, or administrative action, whichever is proper. The commander advises the CBPO and responds to the complainant.

(c) *Returned for Other Reasons.* A check which is returned for other reasons such as negligence in maintaining funds in the account or

failure to keep the checking account records accurate may be the basis for administrative action. When advised of a dishonored check of this type, the commander requests the member's UIF, consults with SJA, and counsels the member regarding Air Force policy (see § 818.2(c)), and responds to the complainant.

(d) *Checks Written by Dependents.* A dishonored check issued by a dependent is not processed under this part unless the SJA determines that it represents a debt for which the military member may be held personally liable (for example, checks written for necessaries). If the military member may be held liable for the check, it will be treated as an indebtedness under this part.

§ 818.18 High-level inquiries.

When an inquiry is received from AFMPC, the unit commander counsels the member on the standards and procedures of § 818.1. For inquiries which the immediate commander responds to the complainant, the reply must include a statement of Air Force policy that applies to the situation and a statement of the position taken by the member. For inquiries requiring AFMPC response the commander uses the items in paragraphs (a) through (g) of this section as a guide and furnishes appropriate information to AFMPC. Should an item not apply to the inquiry, state "not applicable."

(a) If a court order or decree is involved, advise requirements of the court order or decree and whether the member is complying with it. Where court order exists, unit commanders should seek advice of the servicing SJA before replying.

(b) If applicable, advise the way in which support or debt payments have been made, including amount, method, and dates payments were furnished. Also advise the way in which future support or debt payments will be made, including amount and method of payment (for example, personal check, money order, allotment, etc.). If payments are made by allotment, give effective date of first payroll deduction and advise when complainant may expect to receive first allotment check.

(c) If member acknowledges arrearages in support or debt payments, advise what action member has taken or will take to liquidate arrearages, including amounts and dates payments will be made.

(d) Advise if member agrees or refuses to release information protected by the Privacy Act of 1974 (Part 806b of this chapter).

(e) The member's actions must comply with Air Force policy as stated in § 818.1.

(f) Include name of commander, unit address, and base telephone extension.

(g) Is member drawing BAQ (at the "with dependent" rate)?

§ 818.19 Certificate of compliance.

See 32 CFR Part 43a.10.

§ 818.20 Standards of fairness.

See 32 CFR, Part 43a.9.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-4784 Filed 2-13-80; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 80-16]

Drawbridge Operation Regulations; Elizabeth River, Southern Branch, Va.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the city of Chesapeake, Virginia, the Coast Guard is changing the regulations governing the operation of the State Highway 337 drawbridge across the Elizabeth River, Southern Branch, mile 2.8, Chesapeake, Virginia, to allow periods when the draw need not open for the passage of pleasure craft. This change is being made because of rush hour traffic during the periods being affected.

EFFECTIVE DATE: This amendment is effective on March 17, 1980.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Chief, Bridge Section, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705 (804-398-6226).

SUPPLEMENTARY INFORMATION: On December 13, 1979, the Coast Guard published a proposed rule (44 FR 72188) concerning this amendment. The Commander, Fifth Coast Guard District, also published these proposals in a Public Notice dated December 13, 1979. Interested persons were given until January 14, 1980 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Wayne J. Creed, Project Manager, and Lieutenant Cheryl Avery, Project Attorney, Fifth Coast Guard District.

Discussion of Comments

No comments were received.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding § 117.349a to read as follows:

§ 117.349a Elizabeth River, Southern Branch, Virginia, Route 337 drawbridge.

(a) The drawbridge shall open on signal except that:

(1) From 6:30 a.m. to 7:30 a.m. and from 3:30 p.m. to 4:30 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of pleasure craft.

(2) At all times not covered by the regulations in this paragraph and in all other respects, the regulations contained in § 117.240 shall govern the operation of this bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6[g][2], 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655[g][2]; 49 CFR 1.46[c][5]; 33 CFR 1.05-1[g][3])

Dated: February 4, 1980.

T. T. Wetmore III,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 80-4782 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1411-8]

Approval and Promulgation of Implementation Plans; Louisiana Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves, in part, revisions to the Louisiana State Implementation Plan (SIP). The revisions were submitted by the Governor to fulfill the requirements of Part D of the Clean Air Act, as amended in August 1977 (the Act). The purpose of the revisions is to provide for attainment of the National Ambient Air Quality Standard for ozone in Louisiana's designated nonattainment areas through the reduction of volatile organic compound emissions. The revisions being acted on today are those relating to SIP requirements for nonattainment areas as specified in Part D of the Act. The Louisiana SIP is being conditionally approved by the Administrator. Conditions stipulated in this notice explain what actions must be taken before final approval can be granted.

EFFECTIVE DATE: This rulemaking is effective on February 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Chief, Implementation Plan Section, Air Program Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2742.

SUPPLEMENTARY INFORMATION:

Introduction

Provisions of the 1977 Act require States to revise their SIPs for all areas designated as not attaining the National Ambient Air Quality Standards (NAAQS). The Governor of Louisiana submitted the State's SIP revisions on April 30, 1979. These revisions address Part D requirements for attainment of the NAAQS for ozone in seven urban parishes and twelve rural parishes in Louisiana. The Governor's submittal also included revisions relating to other than Part D requirements. However, these revisions are being addressed in a separate action.

EPA has reviewed the Louisiana revisions and the comments in light of the Clean Air Act, EPA regulations and additional guidance. The criteria used in this review were detailed in the general preamble published in the April 4, 1979 **Federal Register** (44 FR 20372), supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

EPA published proposed rulemaking on July 31, 1979 (44 FR 44908), which described the content of the Louisiana revisions, EPA's assessment of the revisions, and EPA's intent with respect to an approval/disapproval action. Where deficiencies were noted, EPA proposed conditional approval on the condition that the State submit corrections or additional information by specified dates.

EPA is taking final action to conditionally approve certain elements of the Louisiana Plan. A discussion of conditional approval and its practical effect appears in two supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67192 (November 23, 1979). The conditional approval requires the State to submit additional materials by the deadlines specified in today's notice. There will be no extensions granted to the conditional approval deadlines being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine the condition is fully met. After the review is completed, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the State fails to timely submit the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect. Certain funds may also be withheld, conditioned or restricted if the plan is disapproved. See CAA § 316(b).

Public Comments

This section reviews the relevant comments received on EPA's notice of proposed rulemaking and the Agency's response to them. One commentor submitted extensive comments which it requested be considered part of the record for each state plan. Each of the points raised by the commentor and EPA's response follow. Although some of the issues raised are not relevant to provisions in Louisiana's submission, EPA is notifying the public of its response to these comments at this time.

1. The commentor asked that comments it has previously submitted on the Emission Offset Interpretative Ruling as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as part of their comments on each state plan. EPA will respond to those comments in its response to comments on the Offset Ruling.

2. The commentor objected to general policy guidance issued by EPA, on grounds that EPA's guidance is more stringent than required by the Act. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2). However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commentor noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision is *Alabama Power Co.* v. *Costle*, 13 ERC 1225 [D.C. Cir., June 18, 1979]). In the commentor's view, court's rulings on the definition of "source", "modification", and "potential to emit" should apply to Part D as well as PSD programs. In addition, the commentor believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretation in the ruling of the terms "source", "major modification", and "potential to emit", and the areas in which NSR applies, govern State plans under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979.) In proposed rules published in the **Federal Register** on September 5, 1979, (44 FR 51924), EPA explained its views on how the *Alabama Power* decision affects NSR requirements for State Part D plans. The September 5, 1979 proposal addressed some of the issues raised by the commentor. To the extent necessary, EPA will respond in greater detail to the commentors' concerns in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the September 5, 1979 proposal, EPA proposed regulations for Part D plans in 40 CFR 51.18(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either existing EPA requirements, or the proposed regulations. Prior to promulgation of final regulations, EPA proposed to approve State-submitted relaxations of previously submitted SIPs, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, States will have nine months, as provided in Section 406(d) of the Act, to submit revisions after EPA promulgates the final regulations.

In some instances, EPA's approval of a State's NSR provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the State to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the new NSR provisions are approved by EPA.

4. The commentor questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commentor noted, EPA has set forth its

proposed bubble policy in a separate Federal Register publication, 44 FR 3720 (January 18, 1979). EPA will respond to the comments on the "bubble" approach in the final "bubble" policy statement.

5. The commentor questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACM results in attainment more expeditiously than application of less than all RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commentor also suggested that all RACM may not be "practicable." By definition, RACM are only those measures which are reasonable. If a measure is impracticable, it would not constitute a reasonably available control measure.

6. The commentor found the discussion in the General Preamble of reasonably available control technology (RACT) for VOC sources covered by Control Technique Guidelines (CTGs) to be confusing in that it appeared to equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the CTGs. The CTGs provide recommendations to the States for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development, 44 FR 53761 (September 17, 1979).

7. The commentor suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commentor questioned EPA's authority to require States to consider transfers of technology from one source type to another as part of the lowest achievable emission rate (LAER) determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commentor suggested that if a State fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commentor's view, the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation. EPA has promulgated regulations which impose restrictions on construction on any nonattainment area for which a State fails to submit an approvable Part D plan. *See* 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a complete federally promulgated SIP before the restrictions may go into effect.

Another commentor, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Act), and proper composition of State boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commentor argued that EPA must secure a State commitment to satisfy the permit fee and State board requirements before conditionally approving a plan under Part D. In those States that fail to correct the omission within the required time, the commentor urged that restrictions on construction under Section 110(a)(2)(I) of the Act must apply.

Response: To be fully approved under Section 110(a)(2) of the Act, a State plan must satisfy the requirements for State boards and permit fees for all areas, including non-attainment areas. Several States have adopted provisions satisfying these requirements, and EPA is working with other States to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the State board provision in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the Act.

In addition to these, this same commentor submitted additional comments specific to the Louisiana SIP. While certain of the comments were identical to those previously discussed, this commentor also addressed the issues of variances, the bubble concept, interstate pollution abatement, and conflicts of interest, all of which are considered to be non-part D requirements and which the Agency has determined need not be addressed under this notice. These comments will be addressed in a separate Federal Register notice, concerning the acceptability of the non-Part D requirements in Louisiana's plan, to be published at a later date. However, two additional comments do require response under this notice and are addressed below.

Comment: This commentor stated that the Lousiana SIP does not contain the required demonstration of reasonable further progress (RFP) as required under Sections 110(a)(2)(I) and 172(b)(3) of the Act, in that the plan does not contain a schedule for achieving specified levels of emission reductions between now and 1982. The commentor also noted that this deficiency was of particular importance since compliance schedules for major sources of VOC had yet to be worked out.

Response: As was noted in the proposed rulemaking of July 31, 1979 (at 44 FR 44908), the State's plan for the urban ozone nonattainment areas provided for greater reductions than those needed for attainment demonstrations (with the caveats noted in the above referenced notice), thereby allowing for growth allowances. The implication of a growth allowance is that the emission level at the end of 1982 is below the emission level equivalent to that required for attainment. If represented graphically, the actual emission reduction curve would end below the theoretical straight-line curve, and accordingly to EPA policy, until the end of 1982, emissions may remain above the straight-line to accommodate the time required for compliance. Therefore, the Agency feels that the Louisiana plan has demonstrated RFP. However, EPA concurs with the commentor that compliance schedules must be submitted to ensure adherence to the predicted RFP schedule, as indicated in the Agency's conditional approval of that portion of the plan.

Comment: This commentor also noted that EPA should condition plan approval on the inclusion of enforceable measures consistent with Section 173 of the Act, pertaining to new source review.

Response: EPA concurs and, as noted at 44 FR 44911 (July 31, 1979), proposed conditional approval of this portion of the Lousiana plan provided that the State revise Regulation 6.0 to include the

requirements for LAER and compliance certification.

Comments were also received from the U.S. Department of Transportation, which requested clarification on the following issues: Whether the cutback asphalt regulation applies statewide or only to urban nonattainment areas, and the assumptions used to arrive at the projected VOC reductions from mobile sources.

The Louisiana Air Control Commission (LACC) is precluded, by State law, from developing regulations that are applicable to distinct areas. Therefore, the cutback asphalt regulations applied statewide.

The SIP specifies the manner in which emission reductions from mobile sources are to occur, only to the extent that the Federal Motor Vehicle Control Program (FMVCP) is identified as the means for achieving these reductions. While no specific calculations are included in the SIP, EPA intends to track the accuracy of the predicted reductions through the requirement for annual updates on the emission inventory.

The State of New Jersey submitted comments on the proposed Part D ozone SIP revisions for several States including Louisiana's. New Jersey contends that SIPs which do not include uniform state-wide controls for existing and new sources which meet the requirements of Part D will not attain the ozone standard. New Jersey urges the Administrator to disapprove ozone SIPs which do not include such state-wide measures. The State of Louisiana, however, has adopted measures including state-wide RACT regulations for existing sources and has demonstrated in its plan that the ozone standard will be attained before the statutory deadline of December 31, 1982. Moreover, New Jersey has not made a specific showing that Louisiana's SIP will not attain standards. Therefore, the Administrator has no basis for disapproving Louisiana's SIP.

In addition, New Jersey argues as it did in objecting to the Administrator's ozone nonattainment area designations, that entire States should be designated nonattainment, thereby requiring Part D SIP revisions state-wide. The Administrator considered all of New Jersey's objections to the designations and responded in the document entitled "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable, and Nonattainment Areas for Ozone" January 1979. Availability of this document was announced in the Februaray 1, 1979 **Federal Register** (44 FR 6395). This document and the Administrator's response to New Jersey's comments are incorporated herein by reference.

Comments were also received from the Asphalt Emulsion Manufacturers Association (AEMA) concerning the availability of emulsified asphalts with low solvent content for all applications in all regions of the country. Although some of the issues raised are not relevant to the Louisiana plan, EPA is notifying the public of its response to these comments at this time. AEMA's main point is that no general rule regarding solvent content of emulsified asphalt for the nation is possible because of varying conditions. AEMA urges that EPA accept each State's emulsion specification as RACT. AEMA also incorrectly concludes that EPA has been using a figure of 5 percent as nationwide RACT for maximum solvent content in emulsified asphalt.

EPA recognizes that varying conditions may require different solvent content asphalts. RACT for asphalt should be determined on a case-by-case basis in order to take varying conditions into account. Therefore, EPA has not set a nationwide standard for the solvent content of emulsified asphalt. However, EPA has accepted a 5 percent maximum solvent content regulation where a state has chosen to submit an across-the-board regulation for emulsified asphalt, rather than develop case-by-case RACT. The intent of EPA guidance has been for states to specify in the regulations, and justify, those emulsions and/or applications where addition of solvent is necessary. Since RACT can be determined on a case-by-case basis, states are free to specify necessary solvent contents on the basis of application or asphalt grade. Where a state demonstrates that these are RACT, EPA will approve the regulations. The following maximum solvent contents for specific emulsified asphalt applications have appeared in EPA guidance and are based on ASTM, AASHTO, and state specifications and on information recently received from the Asphalt Institute:

Use and maximum solvent content

Seal costs in early spring or late fall, 3 percent.
Chip seals when dusty or dirty aggregate is used, 3 percent.
Mixing w/open graded aggregate that is not well washed, 8 percent.
Mixing w/dense graded aggregate, 12 percent.

SIP Deficiencies/Conditional Approvals

A number of deficiencies were identified by EPA in the July 31, 1979, proposed rulemaking. The State, in response to these deficiencies, has either submitted information to remove the deficiency or has committed to submit additional information by a specific deadline.

Control Strategy for Baton Rouge

The Baton Rouge ozone control strategy was found to be deficient due to the lack of growth allowance for the "other solvent use" category. The original marginal growth allowance of 11.7 tons of volatile organic compounds (VOC) would have easily been exceeded with any nominal growth in this category. EPA also pointed out that the State had not submitted regulations representing RACT for refinery vacuum producing systems or process unit turnarounds. The State had also submitted an unsupported exemption for refinery wastewater separators. EPA proposed to conditionally approve this portion of the SIP provided the State address the control strategy deficiencies and exemptions by August 30, 1979, and submit the additional RACT regulations by November 27, 1979. On August 28, 1979, the LACC submitted additional information to support the Baton Rouge attainment demonstration. The State also submitted a commitment to amend the wastewater separator regulation and adopt RACT for refinery vacuum producing systems and process unit turnarounds. The acceptability of these regulations will be discussed under the section entitled "Reasonably Available Control Measures". In the material submitted by the State in support of the attainment demonstration it was stated that the growth projections were inadvertently added to both the 1977 and 1982 emissions inventory thus showing no growth. This error was corrected and incorporated into the emission inventory summaries for all three urban areas (i.e. Shreveport, Baton Rouge and New Orleans). The additional information also took credit for tons of VOC removed due to the proposed amendment to the wastewater separator regulation and adoption of the additional RACT regulations. These additional reduction credits change the growth allowance for Baton Rouge from the original 11.7 tons of VOC to 461.3 tons of VOC. While the new growth allowance does allow some margin, it could easily be consumed, if reduction by existing sources as shown in the attainment demonstration are not achieved as required. While EPA is approving the attainment demonstration for Baton Rouge, the compliance schedules for the existing sources and the ability to achieve the actual reductions will be closely tracked by EPA for the reason just stated.

Control Strategy for New Orleans and Shreveport

EPA proposed to conditionally approve the attainment demonstrations for the New Orleans and Shreveport urban areas for the same reasons as the Baton Rouge area (i.e. lack of detailed emissions inventory calculations and the lack of RACT regulations for refinery vacuum producing systems and process unit turnarounds). The LACC in its August 28, 1979 submission also submitted detailed calculations for the New Orleans area and through its commitment to adopt the additional RACT regulations addressed the deficiency noted for the Shreveport area and the New Orleans area for inadequate RACT regulations. EPA is approving the attainment demonstrations for Shreveport and New Orleans but points out, as with the Baton Rouge control strategy, reductions to be achieved by existing sources of VOC in the New Orleans area will be closely monitored to insure the actual achievement committed to reductions.

Reasonable Available Control Measures

In the proposed rulemaking on July 31, 1979, EPA pointed out that the Louisiana SIP revision did not include regulations representing RACT for refinery vacuum producing systems and process unit turnarounds. Additionally, the Louisiana SIP contained an unsupported exemption for wastewater separators (Regulation 22.6) and for degreasing operations (Regulation 22.12.4). EPA proposed to conditionally approve this portion of the Louisiana SIP provided regulations representing RACT for refinery vacuum producing systems and process unit turnarounds were adopted and submitted to EPA by November 27, 1979. Additionally, EPA proposed conditional approval provided justification for the exemptions for wastewater separators (reg. 22.6) was submitted by August 30, 1979 or the regulation was revised by eliminating the exemptions and submitted to EPA by November 27, 1979. EPA also proposed to approve the degreasing regulation (reg. 22.12.4) if the State could justify the exemptions and also certify by August 30, 1979 that there were no solvent metal cleaning sources which have the potential to emit 100 tons or more of VOC per year in any of the nonattainment areas.

The LACC adopted Regulations 22.17 and 22.18 on September 25, 1979, for refinery vacuum systems and process unit turnarounds respectively. The Governor submitted these regulations as revisions to the Louisiana SIP on October 18, 1979. EPA is presently reviewing this submission. The conditional approval of this portion of the SIP will continue in effect pending EPA's final action regarding this matter. The LACC advised EPA by letter of August 28, 1979 that they intended to revise the wastewater separator regulation by removing the 200 gallons of VOC per day exemption. On October 11, 1979, the LACC submitted a schedule for modifying the wastewater separator regulation which consisted of the following milestones:

September 20, 1979—Notification of Intent published in Louisiana Register.
October 23, 1979—Hold Public Hearing.
November 27, 1979—Commission to adopt Regulation revisions.
December 15, 1979—Regulations to be submitted to EPA.

While the LACC schedule exceeded the schedule as proposed in the July 31, 1979 proposed rulemaking, EPA accepted the LACC schedule which required the regulation to be submitted to EPA by December 15, 1979. EPA felt that due to the two submission dates differing by only 18 days that it was unnecessary to provide for notice and comment regarding the change in submission date.

The State, in its August 28, 1979 letter, also submitted a certification stating that there were no solvent metal cleaning point sources which emit 100 tons or more per year of VOC in any nonattainment parishes in Louisiana. This certification was resubmitted by the Governor on October 18, 1979. The certification did state that two parishes (Jefferson and Orleans) did have VOC emissions from degreasing operations in excess of 100 tons per year but these were area sources only.

The State advised EPA in their October 11, 1979 letter, that they had decided to revise Regulation 22.12.4 pertaining to degreasing as opposed to justifying exemptions and included a schedule defining the actions to be taken by the LACC. This schedule is identical to the schedule submitted for modifying the wastewater separator regulation.

In the July 31, 1979 proposed rulemaking EPA proposed approval of Regulation 22.12.4 based upon the State justifying the exemptions in the regulation within a specified time frame. However, as noted, the State committed to adopt and submit a revised regulation to EPA by December 15, 1979. EPA is, today, promulgating the schedule for the submission of the revision to Regulation 22.12.4 and is granting conditional approval to this portion of the SIP.

The Governor of Louisiana submitted revisions to regulations 22.6 and 22.12.4 by letter of December 10, 1979. These revisions will be reviewed in terms of meeting the required conditions and in regard to regulation 22.12.4 EPA, will in a subsequent **Federal Register**, publish a notice of proposed rulemaking. The conditional approval will continue in effect until EPA takes final action on this revision.

In the July 31, 1979 proposed rulemaking EPA pointed out that the Governor's submittal of April 30, 1979 included revisions to regulations which had previously been withdrawn. Therefore EPA could not act on revisions which incorporated requirements under Sections 22.3, 22.8 and 22.10.

The LACC adopted changes to Sections 22.3, 22.8 and 22.10 on May 22, 1979 and the Governor submitted these revisions on June 20, 1979. Since these Sections of the LACC regulations were modified due to EPA's earlier proposed disapproval, 44 FR 11798 (March 2, 1979) of Section 22.8 (b) and (c), EPA must now evaluate the State's modifications and repropose our action in the **Federal Register.**

LACC Regulations 22.17 and 22.18 both specify that emissions shall be controlled by one of the applicable methods specified in Section 22.8. Since Section 22.8 had been withdrawn and is presently not an EPA approved regulation EPA must conditionally approve Regulation 22.17 and Regulation 22.18 since both regulations reference Section 22.8. EPA will in a subsequent **Federal Register** notice propose action on the resubmitted Sections 22.3, 22.8 and 22.10. Provided these Sections are approvable the conditional approval for Regulation 22.17 and Regulation 22.18 will be withdrawn and these regulations approved.

As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs, such as Louisiana, includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978 and schedules to adopt and submit by each future January additional RACT requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 by **Federal Register** notice of August 28, 1979 (44 FR 50371). Louisiana has already submitted the first set of RACT regulations. These are under review and EPA's approval/disapproval action will be proposed in a **Federal Register** notice at a later date. In addition, beginning January 1, 1981, RACT requirements for sources covered

by CTGs published by the preceding January must be adopted and submitted to EPA. The above requirements are set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action. While EPA proposed to conditionally approve the ozone portion of the SIP based on the above requirements, today's action in adding the requirements to the "Approval Status" section of the rule provides similar assurance that the regulations will be submitted in the specified time frame.

Permit Requirements

The July 31, 1979 proposed rulemaking stated that the Louisiana SIP permit requirements for the construction of new or modified major sources were inconsistent with the requirements of Section 173 of the Act. EPA proposed to conditionally approve the Louisiana SIP with respect to new source review provided the State amend its permit regulation (Regulation 6.0). Specifically EPA required the State to revise Regulation 6.0 to require that new or modified major sources located in nonattainment areas shall comply with the lowest achievable emission rate (LAER) requirements and that it require owners or operators of proposed new or modified sources to demonstrate that all major stationary sources in the State owned or operated by them are in compliance with applicable portions of the SIP, or are on a schedule of compliance. The modifications to Regulation 6.0 were proposed to be submitted by November 27, 1979. On October 11, 1979 the LACC submitted to EPA its planned schedule to modify Regulation 6.0 to incorporate the requirements of LAER and other source compliance and to submit the regulation by December 15, 1979. EPA is promulgating the December 15, 1979 submission date due to only 18 days difference between EPA's proposed date and the State's submitted schedule. Also, EPA is conditionally approving Regulation 6.0 provided the regulation is amended and submitted by December 15, 1979.

On December 10, 1979, the Governor submitted a revision to Regulation 6.0 in accordance with the State's schedule. EPA is presently reviewing this submission. The conditional approval of this portion of the SIP will continue in effect pending EPA's final action regarding this matter.

Adequate Notice and Public Hearing

The Governor's initial SIP revision submittal of April 30, 1979, did not include a certification of adequate notice and public hearing in accordance with 40 CFR 51.4. Approval was proposed on the condition that appropriate information be submitted by the State within 30 days of the notice. On June 20, 1979 the Governor submitted the required information. The public hearing information included a certification that the SIP revisions were adopted on March 27, 1979, copies of newspaper notices published 30 days prior to the hearing, copies of written statements presented at the hearing, and a hearing transcript. This information is considered to be an adequate demonstration of compliance with the public hearing requirements of 40 CFR 51.4.

Schedules of Compliance

In accordance with the provisions of 40 CFR 51.15 the State has elected to submit compliance schedules for individual sources. The SIP states that final compliance will be achieved promptly, but in no event later than December 31, 1982. A commitment is made in the SIP that compliance schedules will be requested within 90 days after promulgation of Regulation 22.0, Control of Emissions of Hydrocarbon Compounds from New Sources and Existing Sources. While EPA is approving this portion of the SIP, EPA points out that the State must submit the compliance schedules within 60 days following the date of adoption of the schedule and that for schedules of compliance extending over one year from date of adoption shall provide for legally enforceable increments of progress.

Solvent Exemptions

The State Implementation Plan (SIP) includes a provision which exempts methyl chloroform (1,1,1 trichloroethane) and methylene chloride. These volatile organic compounds (VOC), while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOCs which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light (UV), the depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer.

With the exemption of these compounds, some sources, particularly existing degreasers, will be encouraged to utilize methyl chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in the SIP can only further aggravate the problem by increasing the emissions produced by existing primary degreasers and other sources.

The Agency is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. The Agency does not intend to disapprove the State SIP submittal if, after due consideration, the State chooses to maintain these exemptions. However, we are concerned that this policy not be interpreted as encouraging the increased use of these compounds nor compliance by substitution. The Agency does not endorse such approaches. Furthermore, State officials and sources should be advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may well be required to install control systems as a consequence of these future regulatory actions.

Attainment Dates

The 1978 edition of 40 CFR Part 52 lists in the subpart for Louisiana (Subpart T) the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Louisiana's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission

limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.
>
> (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements only if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

EPA finds that good cause exists for making this action immediately effective. EPA has a responsibility to take final action on these revisions as soon as possible in order to lift growth sanctions in those areas for which the state has submitted adequate plans in accordance with Part D requirements.

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". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air act, as amended.

Dated: February 6, 1980.

Barbara Blum,

Acting Administrator.

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

Subpart T—Louisiana

1. In Section 52.970, paragraph (c) is amended by adding new paragraphs (15), (16), (17), (18), and (19) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(15) Revisions to the plan for attainment of standards for ozone (Part D requirements) were submitted by the Governor on April 30, 1979.

(16) Regulation 22.0 and evidence of notice and public hearing for the 1979 plan revisions were submitted by the Governor on June 20, 1979.

(17) Emission inventory information, emission reduction information, a certification of the lack of major degreasing sources, and a commitment to adopt future regulations were submitted by the Louisiana Air Control Commission on August 28, 1979 (non-regulatory).

(18) Schedule for the modification and submittal of regulations 22.6 and regulation 6.3.8 were submitted by the Louisiana Air Control Commission on October 11, 1979 (non-regulatory).

(19) Regulations 22.17 and 22.18, adopted by the Louisiana Air Control Commission on September 25, 1979 were submitted by the Governor on October 18, 1979.

§ 52.971 [Amended]

2. Section 52.971 is amended by changing the heading "Photochemical oxidants (hydrocarbons)" to "ozone".

3. Section 52.972 is revised to read as follows:

§ 52.972 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Louisiana's plan for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Further, the Administrator finds that the plan satisfies all requirements of Part D of the Clean Air Act, as amended in 1977, except as noted below.

In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on EPA approval of regulations submitted by Louisiana for the sources covered by controlled technique guidelines (CTGs) issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional reasonably achievable control technology (RACT) requirements for sources covered by CTGs issued by the previous January.

4. In Subpart T, § 52.973 is added to read as follows:

§ 52.973 Control strategy and regulations: Ozone.

(a) *Part D Conditional Approval.* The Louisiana plan is conditionally approved until the conditions specified below for the ozone nonattainment areas are met.

(1) The plan should include legally enforceable regulations, which represent reasonably available control technology for petroleum refinery vacuum producing systems and process unit turnarounds by November 27, 1979.

(2) Regulation 22.6 is revised to apply to sources which have uncontrolled emissions of volatile organic compounds of 100 tons per year or more, and is submitted to EPA in accordance with the following schedule:

(i) Notice of public availability—September 20, 1979.

(ii) Public hearing—October 23, 1979.

(iii) State adoption—November 27, 1979.

(iv) State submittal—December 15, 1979.

(3) Regulation 22.12.4 is revised to exempt degreasing operations on a facility-wide basis, which have emissions of volatile organic compounds equal to or less than 100 tons per year, and is submitted to EPA in accordance with the following schedule:

(i) Notice of public availability—September 20, 1979.

(ii) Public hearing—October 23, 1979.

(iii) State Adoption—November 27, 1979.

(iv) State submitted—December 15, 1979.

5. Section 52.976 is amended by adding a new paragraph (c) to read as follows:

§ 52.976 Review of new sources and modifications.

* * * * *

(c) *Part D Conditional Approval.* The Louisiana plan is conditionally approved until Regulation 6.0 is revised to comply with the requirements of Sections 173 (2) and (3) of the Clean Air Act, and is submitted to EPA in accordance with the following schedule:

(1) Notice of public availability—September 20, 1979.

(2) Public hearing—October 23, 1979.

(3) State adoption—November 27, 1979.

(4) State submittal—December 15, 1979.

6. Section 52.979 is revised to read as follows:

§ 52.979 Attainment dates for national standards.

The table below presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Louisiana's plan, except where noted.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Monroe-El Dorado Interstate	a	a	b	b	.....	b	b
Shreveport-Texarkana-Tyler Interstate:							
a. Caddo and Bossier Parishes	a	a	b	b	b	b	c
b. Remainder of AQCR	a	a	b	b	b	b	b
Southern Louisiana-Southeast Texas Interstate:							
a. Ascension, Iberville, St. James, St. John the Baptist, West Baton Rouge, East Baton Rouge, Calcasieu, Orleans, Jefferson, St. Bernard, St. Charles, Grant, Beauregard, Lafourche, Point Coupee, Lafayette, and St. Mary Parishes.	a	a	a	a	b	b	c
b. Remainder of AQCR	a	a	a	a	b	b	May 31, 1975.

a. July 1975.
b. Air quality levels presently below secondary standards.
c. December 1982.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) of the Act prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.979 (1978).

[FR Doc. 80-4672 Filed 2-13-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 120

[FRL 1414-1]

Water Quality Standards; Navigable Waters of the State of Alabama

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is promulgating beneficial stream use classifications for 16 stream segments in the water quality standards for Alabama. EPA is taking this action because the justifications the State provided for downgrading beneficial use designations did not satisfy the requirements of 40 CFR 35.1550(c)(3), or because the upgraded use designation is attainable.

DATES: This rule becomes effective March 17, 1980.

FOR FURTHER INFORMATION CONTACT: R. F. McGhee, Water Quality Standards Coordinator, Technical Support Branch, Water Division, EPA, Region IV, 345 Courtland Street, NE, Atlanta, Georgia, 30308 (404/881-3012).

SUPPLEMENTAL INFORMATION:

Background

On September 28, 1977, the EPA Regional Administrator for Region IV, disapproved 50 beneficial use designations adopted by the Alabama Water Improvement Commission (hereinafter referred to as the AWIC) because: (1) available information demonstrated that uses consistent with national water quality goals are attainable or (2) the State failed to justify the downgrading of beneficial uses of waters previously classified for beneficial uses requiring more stringent water quality in accordance with 40 CFR 35.1550(c)(3).

In response to EPA's disapproval, the AWIC held a public hearing on November 17, 1977 to receive comments on necessary revisions specified by EPA. On December 19, 1977, the AWIC adopted revised beneficial use classifications consistent with the objectives of the Act for several of the disapproved stream segments. On January 5, 1978, the AWIC submitted to EPA the revised water quality standards adopted on December 19, 1977, and justifications for 30 stream segment use classifications previously disapproved on September 28, 1977.

On February 15, 1978, the Regional Administrator approved the water quality standards adopted by the State on December 19, 1977, with the exception of the 23 streams considered in this action and four other stream segments in Birmingham, Alabama which are the subject of another regulatory action by EPA (See proposed rulemaking in 44 FR 67442, November 26, 1979). Because the State failed to take appropriate action regarding the 23 stream beneficial use designations remaining disapproved, EPA proposed a rule assigning a fish and wildlife use classification to these segments on September 27, 1978 (43 FR 43741).

As part of the rulemaking process, EPA held a public hearing on October 18, 1978, in Auburn, Alabama to receive comments on the proposed rule. Fourteen statements were presented at the public hearing and 22 other comments were received by EPA subsequent to the hearing. Major issues raised during the public participation period and EPA's responses are presented later in this preamble.

Summary of EPA's Action

EPA has reviewed carefully the record and today announces its action on the 23 streams of concern in this proceeding. EPA withdraws its proposed rulemaking and approves Alabama's classification action for the following 7 streams: Burnt Cane Creek, Buxahatchee Creek, Conecuh River, Flint Creek, Rocky Creek, Swan Creek, and Waxahatchee Creek.

EPA Proposed to reinstate the previously designated uses for 9 streams for which the State had downgraded the beneficial uses, but only 8 of these are redesignated for fish and wildlife in this final rule. These are: Bassett's Creek, Beaver Creek, Calebee Creek, Indian Creek (Perdido-Escambia River Basin), Mill Creek, Piney Creek, Wahalak Creek, and Walnut Creek.

For Pond Creek, the 9th stream, EPA reinstates the agricultural and industrial water supply use.

EPA also today promulgates the beneficial water use of fish and wildlife for 7 streams, an action which upgrades the State-designated use. The affected streams are: Christian Creek, Dobbs Creek, Indian Creek (Warrior River Basin), Mud Creek, Parkerson Mill Creek, Snow Creek, and Sycamore Creek.

The Agency's rationale for each of these actions will be discussed subsequently.

Statutory Requirements

Section 303(c) [33 U.S.C. 1313(c)] of the Clean Water Act ("the Act") establishes the requirements for State water quality standards review and revision. Section 303(c) requires States to review and revise water quality standards as appropriate at least once every three

years and to submit the results of this review to EPA for apprroval. If EPA determines that the new or revised standards are not consistent with the requirements of the Act, it must notify the State and specify the changes necessary to comply with the Act. If the State fails to take appropriate action, EPA must propose regulations setting forth a revised or new water quality standard for the navigable waters involved, and subsequently promulgate an appropriate standard. Regulations implementing Section 303(c) of the Act are codified at 40 CFR 35.1550.[1] Further guidance on these regulations appears in Chapter 5 of EPA's "Guildelines for State and Areawide Water Quality Management Program Development," (Notice of Availability published in 41 FR 48777, November 5, 1976, hereinafter referred to as the "Guidelines") and in Appendix A of EPA's Advanced Notice of Proposed Rulemaking (43 FR 29588, July 10, 1978).

The action taken today completes the rulemaking process noted above of disapproval, State notification, proposal and promulgation.

Basis and Purpose

Legal Requirements

Section 303(c)(2) of the Act requires that State water quality standards ". . . be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act." The purpose of water quality standards as with other sections of the Act is to achieve, wherever attainable, the national goal of water quality which will allow for the protection and propagation of fish, shellfish and wildlife, and provide for recreation in and on the water by 1983 [Section 101(a)(2), (33 U.S.C. 1251(a)(2))].

EPA's regulations at 40 CFR 35.1550(c) provide as follows:

. . . (1) The State shall establish water quality standards which will result in the achievement of the national water quality goal specified in Section 101(a)(2) of the Act, wherever attainable. In determining whether such standards are attainable for any particular segment, the State should take into consideration all environmental, technical, social, economic, and institutional factors.

(2) The State shall maintain those water uses which are currently being attained. Where existing water quality standards specify designated water uses less than those which are presently being achieved, the State shall upgrade its standards to reflect uses actually being attained.

(3) At a minimum, the State shall maintain those water uses which are currently designated in water quality standards effective as of the date of these regulations or as subsequently modified in accordance with Section 35.1550(c)(1) and (2). The State may establish less restrictive uses than those contained in existing water quality standards, however, only where the State can demonstrate that:

(i) The existing designated use is not attainable becaue of natural background;

(ii) The existing designated use is not attainable because of irretrievable man-induced conditions; or

(iii) Application of effluent limitations for existing sources more stringent than those required pursuant to Section 301(b)(2)(A) and (B) of the Act in order to attain the existing designated use would result in substantial and widespread adverse economic and social impact . . ."

In order to place today's action in perspective, a general understanding of the components of a water quality standard is helpful. A water quality standard consists of two parts: a designated "use" for which the water body is to be protected (such as "agriculture", "recreation", or "fish and wildlife") and a numerical concentration or qualitative description (or "criterion") for water constituents, which will provide a water quality to support that use (see EPA's policy statement at 43 FR 29588, July 10, 1978).

The designated use component of a water quality standard involves a judgment as to what use is appropriate, given the water body's use and value for various purposes, and attainable, in light of economic, social, and other considerations. The Act and EPA's regulations state that water quality standards shall be established taking into consideration the water's "use and value" for various purposes such as public water supply, propagation of fish and wildlife, recreation, industry, agriculture, and navigation (Section 303(c)(2); 40 CFR 35.1550(b)(2)). In determining whether a standard is attainable, States should consider environmental, technological, social, economic, and institutional factors (40 CFR 35.1550(c)(1)).

The criterion portion of a water quality standard, in contrast, involves a determination of the concentrations of various water constituents that must not be violated in order to support a particular use. Thus, the criterion is founded on scientific, technical considerations. If the criterion for a water constituent necessary to support a water use cannot be attained because of economic, environmental or other factors, the appropriate remedy is to designate the particular water body for a less restrictive use. However, if a criterion generally necessary to support a given use is not necessary to support a designated use in a particular water body, then a less stringent criterion may be allowed. Such a situation may exist because of natural background or other ecological conditions.

Basis for Judging Social and Economic Impacts

40 CFR 35.1550 and the *Guidelines* require upgrading the designated use of waters where certain conditions demonstrate that fishable/swimmable water quality is attainable. The regulations also allow downgrading of beneficial uses when the existing water quality will not support the designated uses and it can be demonstrated that the currently designated uses are not attainable. One of the measures of attainability is economic impact. 40 CFR 35.1550(c) permits use downgrades in cases where treatment more stringent than required by § 301(b)(2)(A) and (B) of the Clean Water Act would result in substantial and widespread adverse economic and social impact.

In order to determine whether the level of treatment required to achieve the fish and wildlife beneficial use designation would cause a substantial and widespread adverse economic and social impact, EPA compared the estimated total cost of new treatment facilities to achieve the use to the median family income of each affected municipality. The treatment costs included the annualized capital costs plus operation and maintenance costs of the new waste treatment facilities. For purposes of the Alabama water quality standards review, an adverse social and economic impact was presumed by EPA when the total new cost to the community of achieving water quality consistent with the fish and wildlife beneficial use designation exceeded 2 percent of the median annual family income. EPA used this ratio as a guide in assessing the economic and social impacts for both the disapproved beneficial use downgrades and the beneficial use upgrades to fish and wildlife. The application of this guidance was described in the February 15, 1978 letter from the Administrator of Region 4 to the AWIC, and was addressed and used by the AWIC and other participants of the public hearing and in written comments submitted to EPA. Because EPA is presently re-evaluating guidance on performing

[1] Recodified designation for former 40 CFR 130.17 (44 FR 30040, May 23, 1979).

economic analyses to support designated use upgrades and downgrades, the test used in this proceeding may be modified in the future. However, EPA considered this 2% test to produce a reasonable assessment of impacts for Alabama and currently applies similar (although not identical) factors nationally in evaluating advanced waste treatment costs.[2]

Analysis of the Record Supporting the Actions Taken Herein

The following discussion is based on an analysis of the material included in the record of this proceeding and otherwise publicly available. Materials included are the various water quality standards and related information submitted by the AWIC, presentations and written submission at the public hearing held in Auburn, Alabama, and the various § 201 plans submitted by the AWIC in support of construction grant applications. A more detailed analysis for each of the 23 streams is available for inspection and copying in both Region 4 and EPA's headquarters public information reference unit. These more detailed analyses use all available information including that submitted at the public hearing held by EPA and are hereby incorporated into the record of this rulemaking by reference.

Streams for Which EPA Withdraws Its Proposed Rulemaking

Burnt Cane Creek

The AWIC has estimated that costs to the community of Sumiton, Alabama, to achieve the fish and wildlife classification would approach 3.9% of the annual median family income. The State's estimate is based on the community's § 201 plan which envisions pumping treated wastewater to another basin. Because the cost estimates show this project to have high social and economic impacts, EPA withdraws its proposed designated use upgrade and approves the State's agricultural and industrial water supply classification.

Buxahatchee Creek

EPA disapproved the State's downgrading to an agricultural and industrial water supply classification and proposed to reinstate the fish and wildlife beneficial use to this stream.

The Calera, Alabama, § 201 study estimated that the cost of treatment facilities sufficient to meet the water quality criteria associated with the fish and wildlife use would require approximately 1.76% of the annual median family income. The AWIC disagreed with this estimate reporting that the cost and operation of the facilities would be approximately 2.27% of the annual median family income. EPA examined the additional justification for the downgrading of this stream and concluded that widespread and substantial adverse social and economic impact would occur to Calera to achieve the fish and wildlife beneficial use designation. EPA therefore withdraws its proposed rule and approves the agricultural and industrial classification for this stream.

Conecuh River

EPA proposed a rule to reinstate the fish and wildlife use classification for this stream downstream from Union Springs, Alabama, which would supersede the AWIC use designation of agricultural and industrial water supply. The AWIC estimated effluent limits to achieve the fish and wildlife classification are a BOD_5 concentration of 2 mg/l and an ammonia-nitrogen concentration of 1 mg/l. EPA estimated the cost to achieve such limits, and concluded that a substantial and widespread adverse social and economic impact would occur to Union Springs to meet the fish and wildlife beneficial use. EPA, therefore, withdraws its proposed fish and wildlife classification and approves the AWIC's beneficial use designation of agricultural and industrial water supply.

Flint Creek

EPA's proposed rule would have re-established the fish and wildlife classification to supersede the AWIC use downgrade to agricultural and industrial water supply. Two communities were potentially impacted by the proposed rule: Falkville and Hartselle, Alabama. Based on subsequent AWIC justification submitted to EPA, the annual cost per family to achieve the fish and wildlife classification was estimated at 2.2% and 2.8% respectively, of the median family incomes. EPA concludes that a substantial and widespread adverse economic and social impact would occur in order for these communities to achieve the fish and wildlife beneficial use. EPA withdraws its proposed rule and approves the agricultural and industrial water supply classification for this stream segment.

Rocky Creek

EPA's proposed rule would have re-established the designated use of this stream as fish and wildlife downstream from a Union Camp facility and the community of Georgiana, Alabama. The AWIC estimated that the effluent limits necessary for Georgiana to achieve the fish and wildlife use classification is a BOD_5 of 2 mg/l and an ammonia-nitrogen concentration of 1 mg/l. EPA estimated the cost to achieve the fish and wildlife use designation and concludes that such costs would result in a substantial and widespread adverse social and economic impact to the community of Georgiana. Therefore, EPA withdraws its proposed rule and approves the agricultural and industrial water supply classification for this stream segment.

Swan Creek

EPA's proposed rule would have re-established the designated use of this stream downstream from the community of Athens, Alabama to fish and wildlife. The AWIC submitted additional information to justify the beneficial use downgrade to agricultural and industrial water supply. The additional information demonstrates that the stream has been extensively channelized and therefore qualifies for the beneficial use downgrade because of irretrievable man-induced conditions. EPA therefore withdraws its proposed rulemaking and approves the AWIC designated use of agricultural and industrial water supply.

Waxahatchee Creek

EPA's proposed rule would have re-established the designated use of this stream downstream from the Community of Columbiana, Alabama to fish and wildlife. The AWIC has estimated that the annual per family cost of meeting the fish and wildlife classification would be 2.2% of the annual median family income. EPA concludes that the proposed rule would result in substantial and widespread adverse economic and social impact to the community of Columbiana, withdraws its proposed rule, and approves the AWIC's beneficial use designation of agricultural and industrial water supply.

Streams Re-designated for a Fish and Wildlife Classification

Bassett's Creek

The AWIC beneficial use downgrading for Bassett's Creek was justified on the basis of substantial and widespread adverse economic and social impact (40 CFR 35.1550(c)(3)(iii)). Using information furnished by the community of Thomasville, the cost of treatment to meet the fish and wildlife

[2] PRM 79-7 "Grant Funding of Projects Requiring Treatment More Stringent Than Secondary," 44 FR 29534, May 21, 1979. The test used herein is less inclusive in that it does not include sewerage costs i.e. interceptor sewers, pumping stations, etc.).

classification would be 1.75% of the 1977 median family income. The record contains conflicting evidence of the treatment efficiency required. The AWIC has estimated that the effluent requirements are 4 mg/l of 5-day biochemical oxygen demand (BOD_5) and 1 mg/l ammonia-nitrogen. The consultant to the community of Thomasville reported that the effluent requirements are 20 mg/l BOD_5 and 10 mg/l ammonia-nitrogen.

This discrepancy is explained by the fact that the AWIC and EPA examined conditions of the present discharge site while the community's estimates in its 201 plan were based on an alternative site. The community's figures are more realistic and were used for judgmental purposes in this rulemaking. EPA in comparing the affected community's cost estimate with the EPA criterion, believes that the beneficial use downgrading has not been justified for Bassett's Creek. EPA therefore promulgates the fish and wildlife classification.

Beaver Creek

The AWIC submitted additional data for required treatment by the City of Dothan, Alabama to meet the fish and wildlife use classification. The City calculated total costs of waste collection and treatment to be $4.76 million per year over a 20 year period which the City claims would exceed 2% of the median family income. The treatment plant currently under construction was designed to achieve effluent limits of 10 mg/l BOD_5, 3 mg/l ammonia nitrogen, and 6 mg/l of dissolved oxygen which should meet fish and wildlife criteria. EPA believes that no additional costs are attributable to this action to achieve the fish and wildlife classification. Therefore, EPA rejects the AWIC justification and promulgates the fish and wildlife classification.

Calebee Creek

The AWIC submitted additional justification for downgrading the beneficial use designation of Calebee Creek. This justification consisted of a claim that effluent limits for the City of Tuskegee, Alabama, would have to attain a 5-day biochemical oxygen demand (BOD_5) of 6 mg/l and ammonia-nitrogen of 1 mg/l at a cost of $7 per month per household.

Supplemental information submitted by the AWIC and the comments at the public hearing provide no basis to alter EPA's rationale for disapproving the beneficial use downgrade from fish and wildlife to agricultural and industrial water supply. The City of Tuskegee, Alabama has constructed and is operating a publicly owned treatment works capable of meeting effluent limitations that will ensure the achievement of fish and wildlife criteria in Calebee Creek. EPA can discern no justification, economic, or otherwise, for the AWIC downgraded beneficial use designation. EPA, therefore, promulgates the fish and wildlife beneficial use.

Indian Creek (Perdido-Escambia River Basin)

The AWIC has updated the additional costs associated with upgrading the publicly owned treatment works (POTW) at Opp, Alabama to meet the fish and wildlife classification. These updated costs were estimated at 1.3% of the 1977 median family income for the community. EPA concludes that the use downgrade was not justified on the basis of substantial and widespread adverse social and economic impacts. EPA therefore, promulgates the fish and wildlife use classification.

Mill Creek

This stream presently receives the treated effluent from the community of Oneonta, Alabama. EPA has reviewed the draft § 201 plan for the community which proposes to remove the discharge from Mill Creek. Without the discharge, Mill Creek should achieve water quality consonant with the fish and wildlife use classification. In accordance with 40 CFR 35.1550(c)(1) EPA designates the use of this stream as fish and wildlife.

Piney Creek

Both EPA and the AWIC have estimated the cost to Ardmore, Alabama of achieving the criteria for fish and wildlife. EPA's estimate was 1.11% of the median family income and the AWIC's estimate was 1.76%. EPA concludes that the costs will not result in a substantial and widespread adverse economic and social impact on the community of Ardmore. EPA, therefore, promulgates the beneficial use of Piney Creek as fish and wildlife.

Wahalak Creek

The AWIC submitted information estimating that maintenance of the fish and wildlife beneficial use classification in this stream would require the expenditure of $138 per household per year for the community of Butler, Alabama, which is 1.5% of the 1977 median family income for that community. The State has also argued that completion of a § 201 plan, which is presently under preparation, will provide additional information on which to base a beneficial use designation for Wahalak Creek.

EPA has evaluated this additional information transmitted by the AWIC. EPA's regulations place the burden of demonstrating a downgraded beneficial use on the State. In this case, it is EPA's judgment that the economic impacts are insufficient and the accompanying rationale too speculative to justify a downgrading. When the § 201 plan is completed, the AWIC may use that information, if appropriate, in an attempt to justify a downgrade of the beneficial use. EPA promulgates the fish and wildlife classification.

Walnut Creek

The AWIC transmitted a justification for downgrading the designated use of this stream from fish and wildlife to agricultural and industrial water supply. The State claims a cost equivalent to 1.5% of the median family income for the community of Clanton, Alabama to achieve the effluent limits necessary to maintain fish and wildlife designated use (10 mg/l of BOD_5 and 2 mg/l of ammonia-nitrogen). The State has provided insufficient additional information to justify the beneficial use downgrade on the basis of substantial and widespread adverse social and economic impacts to the community of Clanton. EPA promulgates the fish and wildlife use for this stream.

Stream for Which the Agricultural and Industrial Water Supply Is Established

Pond Creek

EPA proposed that Pond Creek be classified for fish and wildlife in its September 27, 1978, proposed rulemaking. The AWIC had assigned a designated use of industrial operations. EPA reviewed the available information and concluded that the fish and wildlife classification is not attainable because of natural background conditions existing in Pond Creek. EPA then considered whether Alabama justified the designated use downgrade to industrial operations or whether agricultural and industrial operations classification and an agricultural and industrial uses might be more appropriate. The basic difference between an industrial operations classification and an agricultural and industrial water supply classification is in consideration of toxic substances as they relate to fish.

The industrial operations classification makes no provision for fish survival or fish propagation. The agricultural and industrial water supply classification provides for fish survival. Observations of Pond Creek indicate that there are fish in Pond Creek and that dissolved oxygen levels are

adequate to support fish survival. Because water quality in Pond Creek is currently adequate to support fish survival, EPA promulgates the agricultural and industrial water supply designated use.

Streams for Which the Beneficial Use Is Upgraded to Fish and Wildlife.

Christian Creek

EPA proposed to upgrade the beneficial use of this stream to fish and wildlife downstream from Alexander City, Alabama. The basis for EPA's action was that the existing classification designated water uses requiring less stringent water quality than is attainable with proper operation of an existing activated sludge type secondary wastewater treatment plant.

Considering these two factors plus the fact that no objections were entered into the record of this proceeding, EPA promulgates the designated use of this stream as fish and wildlife.

Dobb's Creek

EPA proposed to upgrade the beneficial use of this stream to fish and wildlife downstream from Alexander City, Alabama. The basis for EPA's action was that the existing classification designated water requiring less stringent water quality than is presently being achieved by an existing activated sludge-type secondary wastewater treatment plant [see 40 CFR 35.1550(c)(2)].

With this information and because no objections were entered into the record of this proceeding, EPA promulgates the designated use of this stream as fish and wildlife.

Indian Creek (Warrior River Basin)

The AWIC indicates that effluent limits of 15 mg/l BOD_5 and 2 mg/l ammonia-nitrogen for the community of Parrish, Alabama, will maintain satisfactory water quality in this stream segment to protect fish and wildlife. This effluent quality is achievable with existing extended aeration-type waste treatment facilities. In accordance with 40 CFR 35.1550(c)(1), EPA designates this stream segment for fish and wildlife.

Mud Creek

The AWIC indicated that effluent limits for the community of Russellville, Alabama, of 15 mg/l BOD_5, 5 mg/l ammonia-nitrogen and 5 mg/l dissolved oxygen "will approach" fish and wildlife quality. Extended aeration-type treatment facilities capable of meeting these effluent limits are currently under construction in Russellville. It is EPA's judgment that because of the waste treatment facility under construction in Russellville, the fish and wildlife use is attainable in Mud Creek. Therefore, EPA designates the use of this stream as fish and wildlife.

Parkerson Mill Creek

Parkerson Mill Creek originates within the city limits of Auburn, Alabama and flows generally in a southerly direction. At the point of discharge of Auburn's south wastewater treatment plant, Parkerson Mill Creek is a perennial stream with a 7 consecutive day, once in ten year low flow of 0.2 cfs. The AWIC classified the reach of Parkerson Mill Creek from its source to its confluence with Chewacla Creek as Agricultural and Industrial water supply.

Parkerson Mill Creek and its tributaries presently receive treated wastewater from Auburn's south wastewater treatment plant (4 MGD) and 4 mobile home park wastewater treatment plants (total flows of 0.135 MGD).

EPA and AWIC agree that an effluent with a BOD_5 of 5 mg/l and ammonia-nitrogen concentration of 1 mg/l will be required to meet fish and wildlife criteria with continued discharge from the south wastewater treatment plant at its present discharge site. The City of Auburn's estimate of the annual cost to achieve such limits is $600,000.00. Such a cost is approximately $15.00 per month per household and about 1.55% of Auburn's annual median family income.

Auburn is presently developing a § 201 plan for waste treatment. Preliminary analysis indicates that the least costly alternative would be the construction of a new facility to replace the south wastewater treatment plant. This new facility would discharge to Parkerson Mill Creek downstream from the Chewacla Creek confluence in a different receiving water segment.

Based on preliminary information from the City of Auburn's consultant it appears that the discharges will be removed from the segment for which EPA proposed a designated use upgrade to fish and wildlife. If this plan is ultimately submitted to EPA and approved, it appears fish and wildlife criteria upstream from the Chewacla Creek confluence can be achieved. Moreover, if the present south wastewater treatment plant is upgraded as an alternative, available information indicates that the costs would not cause a substantial and widespread adverse social and economic impact. Therefore, EPA promulgates the fish and wildlife designated use for this stream segment.

Snow Creek

The AWIC justification provided EPA apparently premises the use classification on irretrievable man-induced conditions which allegedly cause poor water quality. The AWIC argues that urban non-point source pollution, and the concrete lining of several sections of the Creek make the water quality unsuitable for supporting fish and aquatic life.

Data furnished by the AWIC do not support AWIC's assertions. The AWIC data indicate that the stream does receive individual point source pollution as well as runoff. Moreover, water quality data indicate pollutant levels consistent with fish and wildlife uses.

Since current water quality is adequate to support fish and wildlife, EPA designates the beneficial use of Snow Creek as fish and wildlife.

Sycamore Creek

This small stream receives the effluent from the City of Linden, Alabama's waste treatment lagoon. The AWIC indicates that the effluent must not exceed concentrations of BOD_5 of 5 mg/l and an ammonia-nitrogen of 2 mg/l in order to achieve a fish and wildlife use. The AWIC further reports that the stream is dry a substantial portion of the time but is unable to quantify the low flow because of the absence of flow data. To meet fish and wildlife criteria the city indicated that an addition to their existing lagoon would be required. The addition would provide 9 months storage. Using the City's cost estimates (which are 2½ times those of EPA), the annual cost per family would be $86.16 of which $40.00 would be attributable to the construction cost.

EPA has analyzed this information and concludes that a substantial and widespread adverse economic impact would not occur if fish and wildlife criteria were met in this stream. It is EPA's judgment that the fish and wildlife use classification is attainable and that designated use is promulgated for Sycamore Creek.

Public Comments

EPA has addressed comments specific to particular streams in developing the explanation of the actions taken today. Comments of a more general nature are addressed here.

One commenter noted that several of the streams were intermittent and thus natural flows are frequently zero. It was argued that fish and aquatic life were better off with some flow even though degraded conditions existed. EPA recognizes the value of instream flows in maintaining indigenous aquatic life.

However, the goals of the Clean Water Act are to achieve fishable-swimmable waters wherever attainable. EPA considered economic factors in ascertaining attainability of the fish and wildlife uses and where high costs were identified, approved uses requiring less stringent water quality than required for fish and wildlife. The fact that a stream is intermittent does not of itself justify uses less restrictive than are attainable.

One commenter characterizes the runoff from urban areas and drainage from animal pen areas as naturally occurring. It is argued that streams degraded by such runoff should satisfy EPA's natural background justification. While it is true that the runoff from urban and agricultural areas is natural, the pollutants contained in the runoff and the hydrograph of the runoff could be substantially different were the same area left undisturbed. Such non-point source impacts do not constitute natural background conditions. Therefore the natural background exception in these cases is inappropriate.

One commenter assumed that the 7 consecutive day average low flow rate with a recurrence frequency of once in 10 years (7Q10) occurs only 0.2% of the time, and argued that treatment costs were excessive for protecting a stream for so few days each year. The assumption underlying this argument is incorrect. Flow rates equal to the 7Q10 or of comparable magnitude occur for various periods virtually every year. Low flow is an annual phenomenon.

The 7Q10 is determined by calculating the mimimum flow rate existing for seven consecutive days for each year of the available record. These data are then analyzed statistically to determine the flow rate which has a probability of occurring for 7 consecutive days once every ten years. However, that particular flow rate (and lower flow rates) may occur for one or several consecutive days each year.

EPA also notes that environmental design conditions are chosen such that designated uses are maintained in all but extreme conditions. Such a procedure is necessary to provide the continuity necessary to maintain desirable indigenous aquatic life.

One commenter claims that streams heavily impacted by waste discharges actually benefit from such wastes because of the secondary production of aquatic life. EPA cannot agree with this comment. While some nutrients are necessary to maintain aquatic life, heavily polluted waters cause nuisance growths of plant life and lower forms of animal life which may preclude beneficial water uses.

One commenter urges EPA to remove water quality standards and apply effluent guidelines instead. EPA notes that the Clean Water Act requires both water quality standards under section 303 and effluent guidelines under sections 304 and 301.

Estimated Cost of this Regulation

A water quality standards use designation in and of itself has no direct cost to dischargers to a segment. However, section 31(b)(1)(C) of the Clean Water Act requires dischargers to meet permit limitations based on water quality standards. Therefore, EPA has estimated the costs of treatment necessary to meet the standards promulgated today. For the nine cases where EPA disapproved the AWIC use downgrades, it is estimated that EPA's action will result in an annual cost to the local communities of $684,100. For the seven cases where EPA is promulgating a designated use upgrade, the estimated additional annual costs for the local communities are $625,900. These estimates are based on information furnished by the AWIC or the individual community or estimated by EPA. These costs include the cost of secondary treatment portion of advanced treatment which treatment is required by the Clean Water Act regardless of EPA's action in this rulemaking.

EPA did not receive any information during the comment period on which estimates of industrial costs could be made. Because the Agency is promulgating an agricultural and industrial water supply use for Pond Creek, the one stream segment where substantial industrial expenditures might have resuted from a higher use designation, little or no additional cost to industries is expected from this action.

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 lables these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive order 12044.

(Sec. 303 (33 U.S.C. 1313) of the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*)).

Dated: January 31, 1980.

Barbara Blum,

Acting Administration.

Part 120 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding a new Section 120.10 which reads as follows:

§ 120.11 Alabama.

The beneficial uses identified in the water quality standards revisions adopted by the Alabama Water Improvement Commission on May 30, 1977, and revised on December 17, 1977, are amended as follows:

Basin	Stream	From	To	Classification
Coosa	Snow Creek	Choccolocco	Its source	Fish and Wildlife.
Lower Tombigbee	Sycamore Creek	Chickasaw Bogue	Its source	Fish and Wildlife.
Tallapoosa	Christian Creek	Oaktasasi Creek	Its source	Fish and Wildlife.
	Dobbs Creek	Oaktasasi Creek	Its source	Fish and Wildlife.
	Parkerson Mill Creek.	Chewacla Creek	Its source	Fish and Wildlife.
Tennessee	Mud Creek	Cedar Creek	Town Branch	Fish and Wildlife.
	Pond Creek	Tennessee River	Its source	Agric. & Ind. Water Supply.
Tallapoosa	Calebee Creek	Highway 80	Persimmon Creek	Fish and Wildlife.
Tennessee	Piney Creek	County Road vicinity of Wooley Springs.	Its source	Fish and Wildlife.
Warrior	Mill Creek	Chitwood Creek	Its source	Fish and Wildlife.
	Indian Creek	Lost Creek	Its source	Fish and Wildlife.
Choctawhatchee	Beaver Creek	Newton Creek	Its source	Fish and Wildlife.
Coosa	Walnut Creek	Hog Creek	Its source	Fish and Wildlife.
Lower Tombigbee	Bassett's Creek	Orphan's Creek	Its source	Fish and Wildlife.
	Wahalak Creek	Tishlarka Creek	Its source	Fish and Wildlife.
Perdido Escambia	Indian Creek	County road crossing near Horn Hill.	Its source	Fish and Wildlife.

[FR Doc. 80-4743 Filed 2-13-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-5777]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the forseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Hazard Areas.

Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh St., SW., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood Insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State	County	Community name	Date of conversion to regular program
Colorado	Unincorporated area	Clear Creek County	Mar. 11, 1980.
Alabama	Etowah	Town of Altoona	Mar. 14, 1980.
Alabama	Cherokee	City of Centre	Mar. 14, 1980.
Alabama	Walker	Town of Oakman	Mar. 14, 1980.
Missouri	St. Louis	Village of Norwood Court	Mar. 18, 1980.
Missouri	Cass	City of Strasburg	Mar. 18, 1980.
New York	Orleans	Town of Murray	Mar. 21, 1980.
North Carolina	Union	Town of Indian Trail	Mar. 21, 1980.
North Carolina	Unincorporated area	Davie County	Mar. 21, 1980.
Missouri	Cass	City of East Lynne	Mar. 25, 1980.
North Dakota	LaMoure	City of LaMoure	Mar. 25, 1980.
Alabama	Etowah	Town of Hokes Bluff	Mar. 28, 1980.
New York	Herkimer	Town of Little Falls	Mar. 28, 1980.
New York	Orleans	Village of Medina	Mar. 28, 1980.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968, effective January 28, 1969 (33 FR 17804), November 28, 1968), and amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 29, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-4736 Filed 2-13-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (in Alaska and Hawaii) call Toll Free (800) 424–9080, Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a) of the Code of Federal Regulations). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60 (formerly 24 CFR Part 1910).

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Enterprise, Coffee County (FI-5317).	Blanket Creek	Just upstream of College Street	*268
			Approximately 200 feet upstream of Damascus Road (Alabama State Highway 134).	*298
		Blanket Creek Tributary 2	Just upstream of Glenn Street	*294
		Blanket Creek Tributary 2A	Just upstream of Lakeview Drive	*294
		Blanket Creek Tributary 2B	Approximately 50 feet downstream of College Street	*309
			Just upstream of College Street	*314
		Blanket Creek Tributary 2C	Just downstream of Simmons Street	*285
			Just upstream of West Adams Street	*311
		Blanket Creek Tributary 3	Confluence of Blanket Creek Tributary 3 with Blanket Creek	*299
		Cowpen Creek	Just upstream of U.S. Highway 84	*275
			Approximately 125 feet downstream of George C. Wallace Drive	*305
			Just upstream of George C. Wallace Drive	*314
		Cowpen Creek Tributary 1	Just upstream of Eastern Corporate Limits	*227
			Just upstream of Field Road	*266
		Cowpen Creek Tributary 2	Approximately 75 feet downstream of Bellwood Road	*307
		Little Cowpen Creek	Approximately 50 feet downstream of Alabama State Highway 134	*288
		Little Cowpen Creek Tributary 1	Just downstream of U.S. Highway 84 Bypass (Affected by backwater flooding from Little Cowpen Creek).	*286
			Just upstream of U.S. Highway 84 Bypass	*293
		Harrand Creek	Just downstream of Alabama State Highway 27 (East Lee Street)	*255
			Just upstream of Brentwood Drive	*291
		Harrand Creek Tributary 1	Just upstream of Dixie Drive	*257
			Just upstream of Edgewood Drive	*306
			Just upstream of Circle Drive	*326
		Harrand Creek Tributary 1A	Approximately 50 feet downstream of Pinehurst Drive	*289
			Just upstream of Pinehurst Drive	*309
		Harrand Creek Tributary 1A1	Approximately 30 feet downstream of Pinehurst Drive	*290
			Just upstream of Pinehurst Drive	*297
		Harrand Creek Tributary 1B	Approximately 50 feet downstream of Alberta Street	*296
			Just upstream of Alberta Street	*302
		Harrand Creek Tributary 1C	Searcy Street (Extended)	*331
		Harrand Creek Tributary 1D	Approximately 40 feet downstream of Clover Street	*336
			Just upstream of Clover Street	*342
		Harrand Creek Tributary 2	Just downstream of Dam (Breached)	*314
			Just upstream of Dam (Breached)	*316
Maps available at City Engineering Office, 711 Crawford Street, Enterprise, Alabama 36330.				
Alabama	City of Geneva, Geneva County, (FEMA-5713).	Choctawhatchee River	At confluence of Double Bridges Creek	*100
			Approximately 400 feet upstream of State Highway 52	*102
		Pea River	150 feet upstream of Highway 27	*101
			At confluence of Benson Branch	*102
		Line Branch	Approximately 200 feet upstream of Skyline Avenue	*104
			100 feet downstream of Lake Dam	*135
		Three Mile Branch	150 feet downstream of corporate limits	*112
		Benson Branch	Just upstream of Highway 52	*118
			Just downstream of Woodland Street	*133
		Carter Mill Creek	At Bellwood Highway	*103
			At the corporate limits	*119
Maps available at City Hall, Geneva, Alabama 36340.				
Alabama	Unincorporated areas of Talladega County (FEMA-5713).	Griffin Branch	Just downstream of U.S. Highway 231 and 280	*469
			Just downstream of Southern Railway	*441
		Choccolocco Creek	Just upstream of Highway 21	*599
Just downstream of County Road 103				*583
			Just upstream of Louisville and Nashville Railroad	*578
			Just upstream of County Road 93	*510
			Just downstream of County Road 79	*490
		Eastaboga Creek	Just downstream of Interstate 20	*533
			Just downstream of County Road 114	*528
Maps available at the County Commission Office, Talladega County Courthouse, North Street, Talladega, Alabama 35160.				
Arkansas	Town of Calion, Union County (FEMA-5713).	Ouachita River	Just downstream of the Chicago-Rock Island and Pacific Railroad, East of the Protection Works.	*100
		Calion Lake	At the intersection of Epps Street and Landing Street	*95
Maps available at Mayor's Office, Town Hall, Calion, Arkansas 71724.				
Arkansas	City of Corning, Clay County (FEMA-5713).	Cypress Creek Ditch	Just upstream of West Main Street (U.S. Highway 62)	*285
		Corning Lake	Just upstream of East Elm Street (U.S. Highway 62)	*281
Maps available at City Hall, P.O. Box 538, Corning, Arkansas 72422.				
Arkansas	City of Smackover, Union County (FEMA-5713).	Smackover Creek	Just downstream of Old Camden Road	*111
			Just downstream of Northwest Corporate Limits	*113
Maps available at Office of Superintendent of Public Works, City Hall, P.O. 146, Smackover, Arkansas 71762.				
Arkansas	City of West Fork, Washington Co. (FEMA-5713).	West Fork of White River	Just downstream of Arkansas State Highway 170	*1,316
Maps available at City Hall, Main Street, West Fork, Arkansas 72774.				
California	La Mirada (City), Los Angeles County (Docket No. FEMA-5701).	La Mirada Creek	La Mirada Boulevard at centerline	*139
			Imperial Highway 50 feet downstream from centerline	*152
			Imperial Highway 50 feet upstream from centerline	*162
			Ocasco Avenue at centerline	*170
Maps available at City Hall, 13700 La Mirada Boulevard, La Mirada, California.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	Town of Montville, New London County (Docket No. FEMA-5725).	Thames River	Downstream corporate limits to 1.7 miles above downstream corporate limits.	*12 *13
			1.7 miles above downstream corporate limits to 1.2 miles below upstream corporate limits.	
			1.2 miles below upstream corporate limits to upstream corporate limits.	*14
		Oxoboxo Brook	Confluence with Horton Cove	*13
			Upstream of Pink Row	*25
			Upstream of State Route 32	*49
			Upstream of State Route 163	*70
			Upstream of State Route 52	*70
			Upstream of 48" pipe bridge (between Central Vermont Railroad and Pequot Road).	*92
			Upstream of Pequot Road	*120
			Upstream of Bridge Street	*167
			Upstream of Robertson Road	*220
			Downstream of Rockland Pond Dam	*228
		Trading Cove Brook	Confluence with Trading Cove	*14
			Upstream of State Route 32	*26
			Upstream of Connecticut Turnpike	*41
			Upstream of Montville Road	*48
			Confluence of Goldmine Brook	*69
	Maps available at the Building Inspector's Office, the Zoning Office, and the Town Clerk's Office.			
Connecticut	Westport (Town), Fairfield County (Docket No. FEMA-5701).	Saugatuck River	Dam at Lee Pond 175 feet downstream from centerline	*18
			Dam at Lee Pond 50 feet upstream from centerline	*26
			Weston Road at centerline	*36
			At upstream Corporate Limits	*45
		West Branch Saugatuck River	Dam (Downstream Crossing) 100 feet downstream from centerline	*31
			Dam (Downstream Crossing) 100 feet upstream from centerline	*38
			Newton Turnpike at centerline	*89
		Aspetuck River	Weston Road at centerline	*36
			North Avenue at centerline	*69
			At upstream Corporate Limits	*120
		Stony Brook	Unnamed Road (at football field) at centerline	*13
			State Street West 100 feet upstream from centerline	*29
		Dead Mans Brook	Myrtle Avenue 75 feet upstream from centerline	*14
			Evergreen Avenue 100 feet downstream from centerline	*28
			Evergreen Avenue 75 feet upstream from centerline	*34
			Roseville Road 50 feet upstream from centerline	*135
			Merritt Parkway at centerline	*200
		Muddy Brook	Sherwood Island Connector 100 feet upstream from centerline	*14
			Morningside Drive South 50 feet upstream from centerline	*29
			High Point Road 50 feet upstream from centerline	*68
		Sasco Creek	Dam at Buckley Pond 125 feet upstream from centerline	*20
			At upstream Corporate Limits	*61
		Long Island Sound	Intersection of Minard Drive and Covelee Drive	*11
	Maps available at Town Engineer's Office, Town Hall, 110 Myrtle Avenue, Westport, Connecticut.			
Delaware	Bowers, Town, Kent County (Docket No. FEMA-5725).	Delaware River	Entire Community	*9
	Maps available at Donavan's Dock, Bowers, Delaware.			
Delaware	City of Slaughter Beach, Sussex County (Docket No. FEMA-5725).	Delaware Bay	Entire Town of Slaughter Beach	*9
	Maps available at the Fire Hall, Milford, Delaware.			
Florida	City of Casselberry, Seminole County (FEMA-5713).	Grassy Lake Drainage Channel to Triplet Lake.	Approx. 70 feet downstream of Sunset Drive	*65
			Approx. 100 feet upstream Southcot Road	*77
		Grassy Lake Drainage Channel to Queens Mirror Lake.	Approx. 100 feet downstream of Winter Park Drive	*56
			Approx. 200 feet upstream of confluence with Triplet Lake Drainage Channel.	*79
		Gee Creek	Approx. 300 feet upstream of Winter Park Drive	*51
		Howell Creek	Approx. 60 feet downstream of U.S. Highways 17 & 92 (southbound)	*58
		Lake Kathryn	Entire shoreline	*55
		Lake Howell	Entire shoreline	*57
		Lost Lake	Entire shoreline	*55
		Lake Ann	Entire shoreline	*63
		Queen's Mirror Lake	Entire shoreline	*56
		Duck Pond	Entire shoreline	*58
		Crystal Bowl	Entire shoreline	*65
		Lake Triplet	Entire shoreline	*55
		Grassy Lake	Entire shoreline	*86
		Quail Pond	Entire shoreline	*65
		Secret Lake	Entire shoreline	*55
		Lake Concord	Entire shoreline	*60
		Lake Lotus	Entire shoreline	*82
		Trout Lake	Entire shoreline	*81
		Lake Griffin	Entire shoreline	*76
		Dewdrop Pool	Entire shoreline	*70
		Lake Ellen	Entire shoreline	*70
		Dionne Lakes	Entire shoreline	*56
		Red Bug Lake	Entire shoreline	*68
		Deer Run	Eagle Circle Road	*69
	Maps available at City of Casselberry Engineering Department, 95 Lake Triplet Drive, Casselberry, Florida 32707.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(C) Alton, Madison County (Docket No. FEMA-5702).	Mississippi River	Downstream corporate limit	*437
			Upstream corporate limit	*438
		Coal Branch Creek	Just upstream of North Rodgers Road	*455
			Just upstream of Seminary Road	*465
			Just upstream of Humbert Road	*479
			Confluence of Black Creek	*486
		Belt Line Creek	Downstream corporate limit	*445
			Just upstream of Crest Drive	*446
			Just Downstream of State Route 111	*457
		Wood River	Downstream corporate limit	*437
			Upstream corporate limit	*437
		West Fork Wood River	About 0.85 miles downstream of State Highway 140	*439
			Just upstream of State Highway 140	*446
			Just upstream of Burlington Northern Railroad	*449
			Upstream corporate limit	*450
	Maps available at Alton City Hall, 101 East 3rd Street, Alton, Illinois 62002.			
Illinois	(VLG) Bethalto, Madison County (Docket No. FEMA-5702).	East Fork, Wood River	Downstream corporate limit	*450
			Approximately 2900 feet downstream of Albers Lane Road	*455
			Approximately 1480 feet downstream of Albers Lane Road	*456
	Maps available at Village Hall, 213 North Prairie Street, Bethalto, Illinois 62010.			
Illinois	(C) Blue Island, Cook County (Docket No. FEMA-5702).	Stony Creek (East)	Just upstream California Avenue	*582
			About 750 feet downstream Kedzie Avenue	*583
			Just Downstream Homan Avenue	*584
			Just Downstream Central Park Avenue	*584
		Midlothian Creek	At mouth	*590
			About 1200 feet downstream of Western Avenue	*592
			Just Downstream Western Avenue	*596
			About 900 feet upstream Chicago, Rock Island & Pacific Railroad at corporate limit.	*597
		Little Calumet River	About 2500 feet downstream of Ashland Avenue	*589
			About 450 downstream Chessie System	*590
			Upstream corporate limits	*591
	Maps available at Mayor's Office, City Hall, 13051 South Greenwood Avenue, Blue Island, Illinois 60406.			
Illinois	(V) Cary, McHenry County (Docket No. FEMA-5702).	Fox River	Southernmost corporate limits	*735
			Mouth of Cary Creek	*736
			Easternmost corporate limits	*736
		Cary Creek	Downstream corporate limits	*754
			About 250 feet downstream from Sewage Plant Road	*756
			Just upstream from Sewage Plant Road	*759
			About 450 feet downstream from concrete footbridge	*774
			100 feet downstream from concrete footbridge	*775
			Just downstream from concrete footbridge	*780
			Just upstream from Cary Street	*801
			Just upstream from Main Street	*806
			Just upstream from Borden Avenue	*806
			About 1400 feet upstream from Borden Avenue	*817
	Maps available at the Village Administrators Office, Village Hall, 255 Stone Gate, Cary, Illinois 60013.			
Illinois	(V) Clarendon Hills, Du Page County (Docket No. FEMA-5702).	Flagg Creek	Just upstream State Route 83	*712
			Just upstream Harris Avenue	*716
			About 830 feet upstream Harris Avenue	*719
	Maps available at the Village Manager's Office, Village Hall, 1 North Prospect Avenue, Clarendon Hills, Illinois 60514.			
Louisiana	Unincorporated areas of Ouachita Parish (FEMA-5713).	Young's Bayou	Just upstream of Moore Road	*67
			Just upstream of Nutland Road	*68
			Just upstream of Interstate Highway 20	*69
		Pine Bayou	Just upstream of Tichelli Road	*69
		Zoo Branch	Just downstream of Standifer Avenue	*70
		Swayze School Canal	Just upstream of Louisiana Highway 15	*70
			Just upstream of McGee Street	*71
		Oliver Road Canal	Just upstream of Illinois Central Gulf Railroad	*71
		Chauvin Bayou Canal L-11	Just upstream of Lakewood Drive	*71
			Just upstream of Louisiana Highway 553	*72
			Just upstream of Keystone Road	*72
		Black Bayou	Just upstream of Central Street	*72
			Just downstream of Hilton Street	*101
		Levee Ditch	Just upstream of Bancroft Boulevard	*72
			Just upstream of Valley Road	*73
		Golf Course Creek (Flooding Source is Black Bayou.	Just upstream of Drago Street	*72
		Tupawek Bayou	Just upstream of Louisiana Highway 143	*85
			Just downstream of Kiroli Road	*85
		North Tupawek Bayou	Just upstream of D'Arbonne Road	*85
		North Tupawek Bayou	Just upstream of Goodhope Road	*86
		West Prong Youngs Bayou	Just upstream of Illinois Central Gulf Railroad	*71
		Quachita River	Approximately one mile upstream of the southern corporate limits of the City of Monroe.	*83
	Maps available at Director of Public Works Office, City Hall, P.O. Box 637, West Monroe, Louisiana 71291.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Maine	Baldwin (T), Cumberland County (Docket No. FEMA-5702).	Saco River	Downstream corporate limits	*263
			Just downstream State Route 117	*281
			Just downstream Hiram Falls dam	*291
			Just upstream Hiram Falls Dam	*352
			Upstream corporate limits	*359
		Quaker Brook	Confluence with Saco River	*265
			About 400 feet downstream of Maine Central Railroad	*265
			About 380 feet upstream of State Route 113	*271
		Pigeon Brook	Confluence with Saco River	*271
			Just upstream of River Road	*297
			About 1,600 feet upstream of Maine Central Railroad	*325
			About 370 feet upstream of State Route 113	*369
		Pigeon Brook Tributary	Confluence with Pigeon Brook	*272
			About 200 feet downstream of Chase Siding Road	*291
			About 80 feet upstream of Chase Siding Road	*298
		Dug Hill Brook	Confluence with Saco River	*285
			About 1,300 feet upstream from confluence with Saco River	*285
			Just upstream State Route 113	*314
			About 1,370 feet upstream of State Route 113	*331
		Breakneck Brook	Confluence with Saco River	*287
			About 2,000 feet upstream from confluence with Saco River	*287
			Just upstream Maine Central Railroad	*335
			Just downstream Old State Route 113	*358
			Just upstream Douglas Hill Road (downstream of Wards Hill Road)	*438
			Just upstream Farm Drive	*490
			About 70 feet upstream of Douglas Hill Road (near Davis Road)	*541
	Maps available at Town Office, East Baldwin, Maine 04024.			
Maine	(T) Denmark, Oxford County (Docket No. FEMA-5702).	Saco River	Downstream corporate limit	*366
			Confluence with Dragon Meadow Brook	*368
			Approximately 11,000 feet upstream of confluence of Moose Pond Brook.	*371
			Approximately 5,500 feet downstream of upstream corporate limits	*373
			Upstream corporate limits	*374
			Pleasant Pond	*378
	Maps available at Town Office, Denmark, Maine 04022.			
Maine	(T) Strong, Franklin County (Docket No. FI-5592).	Sandy River	Downstream corporate limits	*385
			At confluence of McLeary Brook	*401
			At confluence of Day Mountain Pond Brook	*416
			Just upstream of State Route 145	*443
			Upstream corporate limits	*462
		Valley Brook	Just upstream of abandoned railroad bed	*457
			Approximately 350 feet upstream of State Route 149	*470
			At confluence of Bean Brook	*485
			Approximately 125 feet upstream of State Route 145	*516
			Approximately 3,300 feet upstream of State Route 145	*536
		Bean Brook	Confluence of Doctor Brook	*504
			Approximately 5,725 feet downstream of West Freeman Road	*530
			Just upstream of West Freeman Road	*566
			Upstream corporate limits	*566
	Maps available at the Town Hall, Strong, Maine 04983.			
Massachusetts	Bernardston (Town), Franklin County (Docket No. FI-5100).	Fall River	Hoe Shop Road-200 feet downstream from centerline	*278
			Hoe Shop Road-125 feet upstream from centerline	*295
			Boston and Maine Railroad Bridge—125 feet downstream from centerline.	*304
			Boston and Maine Railroad Bridge-100 feet upstream from centerline	*324
			Burke Flat Road-at centerline	*354
			Most Upstream Footbridge-at centerline	*439
		Dry Brook	West Gill Road—75 feet upstream from centerline	*382
		West Brook	U.S. Route 5-20 feet upstream from centerline	*468
			Upstream Corporate Limits	*483
	Maps available at Town Hall, Church Street, Bernardston, Massachusetts.			
			[14]0005	
Massachusetts	(T) Charlemont, Franklin County (Docket No. FEMA-5702).	Deerfield River	Just upstream of the New England Power Dam Number 4	*480
			Just upstream of State Route 2 first crossing	*482
			Approximately 1.52 miles upstream of State Route 2 first crossing	*486
			Approximately 2.97 miles upstream of State Route 2 first crossing	*501
			Approximately 3.77 miles upstream of State Route 2 first crossing	*510
			Approximately 4.73 miles upstream of State Route 2 first crossing	*520
			Approximately 2.16 miles downstream of West Hawley Road	*530
			Approximately 1.28 miles downstream of West Hawley Road	*540
			Approximately .38 mile downstream of West Hawley Road	*550
			Approximately .51 miles upstream of West Hawley Road	*560
			Approximately 1.34 miles upstream of West Hawley Road	*570
			Just upstream of State Route 2 second crossing	*574
			Approximately .49 mile downstream of the Boston amd Maine Railroad.	*581
			Just downstream of the Boston amd Maine Railroad	*595
			Just upstream of the Boston amd Maine Railroad	*597
		Bozrah Brook	Mouth at Deerfield River	*553
			Approximately 560 feet upstream of mouth	*553
			Approximately 1640 feet upstream of mouth	*563
			Approximately 500 feet downstream of the upstream corporate limit	*580
			Upstream corporate limit	*594

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
		Legate Hill Brook	Mouth at Deerfield River	*555
			Approximately 2100 feet upstream of mouth	*559
			Approximately 1061 feet downstream of Legate Hill Road	*561
			Just downstream of Legate Hill Road	*567
			Upstream side of Legate Hill Road	*569
Maps available at Selectmen's Office, Town Hall, Charlemont, Massachusetts 01339.				
Massachusetts	(T) Colrain, Franklin County (Docket No. FEMA-5702).	North River	Gaging Station in Shattuckville	*471
			Approximately one mile downstream of State Route 112 bridge in Griswoldville.	*483
			Approximately one half mile downstream of State Route 112 bridge in Griswoldville.	*491
			Just upstream of State Route 112 bridge in Griswoldville	*504
			Just upstream of Adamsville Road	*509
			Approximately 0.2 mile upstream of Adamsville Road	*512
			Just downstream of dam	*517
			Just upstream of dam	*526
			At confluence of North River West Branch	*526
		North River, East Branch	Approximately one third mile downstream of Lyonsville Road	*528
			Just upstream of Lyonsville Road	*533
			Approximately 0.02 mile upstream of Foundry Brook	*535
			Approximately 0.02 mile downstream of Foundry Village Road	*543
			Just downstream of Foundry Village Road	*553
			Just upstream of Foundry Village Road	*559
			Approximately 0.4 mile upstream of Foundry Village Road	*575
			Just upstream of State Route 112 bridge in Colrain	*596
			Approximately one half mile upstream of State Route 112 bridge in Colrain.	*604
			Approximately one third mile downstream of Reils Road	*615
			Just downstream of Reils Road	*624
		North River, West Branch	At confluence with North River East Branch	*526
			Approximately one eighth mile downstream of Adamsville Road	*531
			Just upstream of Adamsville Road	*534
			Just downstream of Dam	*538
			Just upstream of dam	*546
			Just downstream of Hersig Road	*560
			Just upstream of Hersig Road	*563
			Approximately 0.2 mile downstream of Heath Road	*576
			Just downstream of Heath Road	*586
			Just upstream of Heath Road	*591
			Approximately 0.32 mile upstream of Heath Road	*608
			Approximately 0.31 mile downstream of Maxam Road	*633
			Just downstream of Maxam Road	*648
			Just upstream of Maxam Road	*650
			Approximately 0.1 mile upstream of Maxam Road	*662
		Foundry Brook	At confluence with North River East Branch	*535
			Just upstream of Foundry Village Road	*549
			Approximately 0.015 mile upstream of Foundry Village Road	*553
			Approximately 0.020 mile upstream of Foundry Village Road	*560
			Approximately 0.04 mile upstream of Foundry Village Road	*561
			Approximately 0.05 mile upstream of Foundry Village Road	*563
			Approximately 0.08 mile upstream of Foundry Village Road	*568
			Approximately 0.093 mile upstream of Foundry Village Road	*574
			Approximately 0.102 mile upstream of Foundry Village Road	*576
Maps available at Town Hall, Colrain, Massachusetts 01340.				
Massachusetts	Town of Danvers, Essex County (Docket No. FI-5665).	Ipswich River	West Street Upstream Side	*48
			Andover Street (State Route 114) Upstream Side	*49
		Porter River	State Route 128	*11
		Frost Fish Brook	Massachusetts Avenue Upstream Side	*14
			Coolidge Road Downstream Side	*17
		Crane River	Water Street (State Route 35)	*11
			State Route 128	*11
		Crane Brook	Downstream crossing of Cemetery Road Upstream Side	*15
			Sylvan Street Dam and Bridge, Upstream Side	*25
			Collins Street Upstream Side	*28
			Andover Street (State Route 114) Upstream Side	*30
			Boston and Maine Railroad, Upstream Side, located 0.3 mile upstream Andover Street.	*41
		Beaver Brook	Holten Street Upstream Side	*32
			Hobart Street	*33
			Beaver Park Road Upstream Side	*36
			Maple Street Downstream Side	*45
			Maple Street Upstream Side	*52
			Nicholas Street Downstream Side	*57
Maps available at the Office of the Town Clerk and the Danvers Public Library.				
Massachusetts	Deerfield (Town), Franklin County (Docket No. FEMA-5701).	Connecticut River	Downstream corporate limits	*132
			Boston and Maine Railroad, 70 feet upstream from centerline	*139
		Deerfield River	Interstate Highway 91 southbound at centerline	*157
			Stillwater Bridge 550 feet upstream from centerline	*160
		Bloody Brook	Whately Road (first crossing)—30 feet upstream from centerline	*189
			Whately Road (second crossing) at centerline	*193
			Pleasant Street 50 feet upstream from centerline	*206
			Jackson Road 30 feet upstream from centerline	*214
		Sugarloaf Brook	River Road (first crossing) at centerline	*139
Maps available at the Office of the Town Clerk, Town Hall, 17 Park Avenue, South Deerfield, Massachusetts.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	(T) Dracut, Middlesex County (Docket No. FEMA-5702).	Merrimack River	Downstream Corporate Limits	*52
			Upstream Corporate Limit	*59
		Beaver Brook	Downstream Corporate Limits	*70
			Just downstream from Pleasant Street	*70
			Just upstream from Pleasant Street	*78
			600 feet upstream from Parker Avenue	*80
			700 feet upstream from Parker Avenue	*85
			2,500 feet upstream from Phineas Street	*92
			1,700 feet downstream from Lakeview Avenue	*96
			400 feet downstream from Lakeview Avenue	*100
			Just upstream from Lakeview Avenue and dam	*119
			Just downstream of Corrine Drive	*121
			Upstream corporate limits	*124
		Peppermint Brook	Just upstream from Lakeview Avenue	*70
			100 feet upstream from Sladen Street	*73
			100 feet downstream from Pleasant Street	*75
			Just upstream from Pleasant Street	*81
			Just upstream from Hildreth Street	*82
		Richardson Brook	Just upstream from Merrimack Avenue	*56
			600 feet upstream from Merrimack Avenue	*56
			950 feet upstream of Merrimack Avenue	*60
			300 feet downstream from Methuen Street	*72
			Just downstream from Methuen Street	*74
			90 feet upstream from Methuen Street	*79
		Gumpas Pond Brook	Confluence with Beaver Brook	*124
			Northwest corporate limits	*124
	Maps available at the Building Inspector's Office, Town Hall, 52 Arlington Street, Dracut, Massachusetts 01826.			
Massachusetts	Edgartown, Town, Dukes County (Docket No. FEMA-5726).	Nantucket Sound/Atlantic Ocean.	Entire Coastline	*9
	Maps available at the Office of the Town Clerk.			
Massachusetts	(T) Greenfield, Franklin County (Docket No. FEMA-5702).	Allen Brook	At confluence with Green River	*170
			Just upstream of Plain Road	*178
			About 300 feet upstream of Colrain Road	*220
		Hinsdale Brook	At confluence with Green River	*182
			Just upstream of Plain Road	*191
			Just upstream of Snead Hill Road	*245
		Connecticut River	At confluence of Deerfield River	*142
			Just upstream of Turners Falls Road bridge	*152
			At confluence of Fall River	*158
		Deerfield River	At confluence with Connecticut River	*142
			At upstream corporate limit	*142
		Cherry Rum Brook	At confluence with Green River	*168
			At outlet end of Interstate 91 culvert	*189
			At inlet end of Interstate 91 culvert	*200
			At confluence of Mill Brook	*210
			Just upstream of Boston and Maine railroad	*239
			Just downstream of Cherry Rum Brook Dam No. 2	*250
			Just upstream of Cherry Rum Brook Dam No. 2	*256
			Just upstream of culvert entrance at Gold Street	*262
			About 500 feet upstream of Cherry Street	*263
		Green River	At confluence with Deerfield River	*142
			Just upstream of dam near Meridian Street	*144
			Just downstream of dam near Mill Street	*148
			Just upstream of Mill Street	*153
			Just upstream of Interstate	*167
			At confluence of Allen Brook	*170
			At confluence of Glen Brook	*191
			Just upstream of Eunice Williams Drive	*245
		Fall River	Mouth at Connecticut River	*158
			Just upstream of South Cross Road	*158
			Just downstream of Old Stone Dam	*194
			Just upstream of Old Stone Dam	*204
			Just upstream of Bascom Road	*248
			At upstream corporate limit	*277
	Maps available at the Planning Office, Town Hall, Greenfield, Massachusetts 01301.			
Massachusetts	(T) Methuen, Essex County (Docket No. FEMA-5702).	Bare Meadow Brook	Just downstream of Merrimack Street	*28
			At confluence of Hawkes Brook	*28
		Hawkes Brook	Approximately 1100 feet upstream of confluence with Bare Meadow Brook.	*28
			Appoximately 2600 feet upstream of confluence with Bare Meadow Brook.	*39
			Approximately 3800 feet upstream of confluence with Bare Meadow Brook.	*75
		Spicket River	Just upstream of southern corporate limit	*60
			Just downstream of dam at Lowell Street	*76
			Just upstream of dam at Lowell Street	*107
			Just upstream of Hampshire Road	*112
		Harris Brook	At confluence with Spicket River	*111
			Approximately 2000 feet downstream of Salem Street	*113
			Approximately 1000 feet downstream of Salem Street	*118
			Just upstream of Pelham Street	*143
			Just upstream of Hampshire Road	*145
		Merrimack River	Approximately 0.4 mile downstream of Interstate Route 495	*28
			Approximately 2.8 miles upstream of Interstate Route 495	*34
			Approximately 1.1 miles downstream of Interstate Route 93	*49
			Approximately 2.8 miles upstream of Interstate Route 93	*52
	Maps available at Community Development Office, Town Municipal Office, 90 Hampshire Street, Methuen, Massachusetts 08144.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	Millis, Town, Norfolk County (Docket No. FI-5551).	Charles River	Downstream Corporate Limits	*123
			Norfolk Road (Upstream)	*127
			Myrtle Road (Upstream)	*135
			Upstream Corporate Limits	*138
Maps available at the Office of the Town Clerk, Millis, Massachusetts.				
Massachusetts	Oak Bluffs, Town, Dukes County (Docket No. FEMA-5725).	Nantucket Sound	Entire Shoreline	*9
		Lagoon Pond	Entire Shoreline	*8
Maps available at the Town Clerk's Office, Oak Bluffs, Massachusetts.				
Massachusetts	Town of Raynham, Bristol County (Docket No FI-5678).	Dam Lot Brook	Orchard Street (Upstream side)	*20
			Warren Street	*13
			U.S. Route 44	*13
		Tributary to Dam Lot Brook	King Street (Upstream side)	*32
			King Street (Downstream side)	*27
			Confluence with Dam Lot Brook	*22
		Forge River	State Route 138 (Upstream side)	*80
			State Route 138 (Downstream side)	*75
			Center Street (Upstream side)	*65
			Mill Street (Upstream side)	*48
			Gardner Street (Dam) (Upstream side)	*44
			Gardner Street (Downstream side)	*31
			South Main Street (Upstream side)	*17
			South Street West	*13
		Tributary to Forge River	White Street (Upstream side)	*41
			North Main Street (Upstream side Johnson Pond Dam)	*37
			North Main Street (Downstream side)	*27
Maps available at the Office of the Town Clerk, Raynham, MA.				
Massachusetts	(T) Shelburne, Franklin County (Docket No. FEMA-5702).	Deerfield	Just upstream of New England Power Company Dam No. 3	*411
			About 80 feet upsteam State Route 2	*424
Maps available at Town Offices, 51 Bridge Street, Shelburne, Massachusetts 01370.				
Massachusetts	Town of Weston, Middlesex County (Docket No. FI-5456).	Bogle Brook	Southern corporate limits	*156
			Just upsteam of Sherburn Circle	*168
			75 feet downsteam of Bogle Street	*171
			Just upstream of Bogle Street	*174
			At the upsteam inlet to Nonesuch Pond	*175
			Just downstream of Interstate 90	*180
			Just upstream of Interstate 90	*184
			Just upstream of MDC Aqueduct	*193
			About 0.25 mile downstream of Pine Street	*197
			About 0.43 mile upstream of Pine Street	*199
			About 0.54 mile upstream of Pine Street	*206
		Tributary No. 4	At the confluence with Bogle Brook	*159
			Just upstream of Bogle Street	*168
			About 2,900 feet upstream of Bogle Street	*186
		Tributary No. 3	At confluence with Bogle Brook	*180
			About 1,640 feet upstream of the confluence with Bogle Brook	*184
			About 2,400 feet upstream of the confluence with Bogle Brook	*185
		Charles River	At the downstream corporate limits	*39
			Just upstream of Park Road	*40
			At the upstream corporate limits	*42
		Stony Brook	At the mouth	*39
			Just downstream of South Street	*39
			Just upstream of South Street	*48
			Just downstream of Stony Brook Reservoir Dam	*48
			Just upstream of Stony Brook Dam	*72
			At the confluence of Stony Brook with Stony Brook Reservoir	*72
			Just downstream of Boston Post Road	*87
			About 200 feet upstream of Boston Post Road	*92
			About 900 feet downstream of confluence of Hobbs Brook	*98
			Just upstream of Church Street	*99
			Just downsteam of Viles Street	*102
			Just upstream of Viles Street	*109
			Just downstream of Boston and Maine Railroad (about 300 feet upstream of Confluence of Cherry Brook).	*110
			Just upstream of Boston and Maine Railroad (about 400 feet upstream of confluence of Cherry Brook).	*114
			About 1,580 feet downstream of Conant Road	*114
			Just upstream of Conant Road	*124
			Just upstream of Merriam Street	*128
Maps available at the Town Office, Town Clerk, P.O. Box 378, Weston, Massachusetts 02193.				
Massachusetts	(c) Woburn, Middlesex County (Docket No. FEMA-5702).	Aberjona River	Downstream Corporate Limits	*31
			Approximately 175 feet upstream of Montvale Avenue	*38
			Just upstream of Washington Street	*41
			Just upstream of Central Street	*43
			Just upstream of Salem Street	*46
			Just upstream of Olympia Avenue	*49
			Just downstream of Nomac Road	*50
			Just upstream of Mishawum Road	*52
			Just downstream of the downstream Commerce Way crossing culvert.	*54
			Just upstream of the downstream Commerce Way crossing culvert	*60
			Just upstream of the Commerce Way crossing located approximately 800 feet downstream of Commonwealth Avenue.	*63
			Just upstream of Interstate 93	*66
			Approximately 825 feet upstream of Interstate 93	*67

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
		Fowle Brook	Approximately 80 feet downstream of Aqueduct Road	*44
			Just upstream of Aqueduct Road	*45
			Approximately 1600 feet upstream of Aqueduct Road	*47
		Shaker Glen Brook	Just downstream of Totman Drive	*48
			Just upstream of Lexington Street	*52
			Just downstream of Cambridge Road culvert	*55
			Just upstream of Cambridge Road	*63
			Approximately 1400 feet upstream of Russell Street	*64
			Approximately 2700 feet upstream of Russell Street	*85
			Approximately 3900 feet upstream of Russell Street	*105
			Approximately 4725 feet upstream of Russell Street	*119
		Cummings Brook	At confluence with Fowle Brook	*47
			Just upstream of Lexington Street	*49
			Just downstream of the Locust Street culvert	*57
			Just upstream of Locust Street	*63
			Just downstream of Bedford Street	*70
			Just upstream of Bedford Street	*74
			Just upstream of Willow Road	*78
			Just downstream of Burlington Street	*78
			Just upstream of Burlington Street	*84
			Just upstream of Bamberg Drive	*91
			Just downstream of Sheridan Street	*92
			Just upstream of Sheridan Street	*97
			Just downstream of Winn Street	*99
			Approximately 80 feet upstream of Winn Street	*102
		Little Brook	At confluence with Cummings Brook	*69
			Approximately 1450 feet downstream of Bedford Road	*75
			Approximately 90 feet downstream of Bedford Road	*89
			Just upstream of Bedford Road	*96
			Approximately 700 feet upstream of Bedford Road	*103
		Halls Brook	Confluence with Aberjona River	*51
			Just upstream of Mishawum Road	*55
			Approximately 230 feet downstream of the Boston and Maine Railroad.	*55
			Approximately 125 feet downstream of the Boston and Maine Railroad.	*57
			Approximately 160 feet upstream of the Boston and Maine Railroad	*63
			Approximately 1800 feet downstream of the downstream Merrimack Street crossing.	*67
			Just downstream of the concrete footbridge located approximately 300 feet downstream of the downstream Merrimack Street crossing.	*72
			Approximately 110 feet downstream of the downstream Merrimack Street crossing.	*75
			Just upstream of the downstream Merrimack Street crossing	*79
			Just downstream of the stone arched footbridge located approximately 300 feet downstream of the upstream Merrimack Street crossing.	*91
			Just upstream of the upstream Merrimack Street crossing	*107
			Approximately 400 feet upstream of the Merrimack Street crossing	*107
		Schneider Brook	At confluence with Aberjona River	*43
			Just downstream of the access road located approximately 1025 feet upstream of the confluence with the Aberjona River.	*50
			Approximately 580 feet downstream of the downstream end of the Washington Street and Salem Street culvert.	*53
			At the downstream end of the Washington Street and Salem Street culvert.	*61
			At the upstream end of the Washington Street and Salem Street culvert.	*74
			Just downstream of Forbes Street	*80
			Just upstream of Forbes Street	*84
			Approximately 825 feet upstream of Forbes Street	*84
		Horn Pond Brook	At downstream corporate limits	*38
			Just downstream of Pond Street	*41
			Just upstream of Pond Street	*44
	Maps available at the Planning Board Office, City Hall, 10 Common Street, Woburn, Massachusetts 01801.			
Michigan	(C) Grand Blanc, Genesee County (Docket No. FEMA-5702).	Thread Creek	About 1,450 feet downstream of Center Road	*805
			Just upstream of Center Road	*809
			Just upstream of Rust Park Drive	*810
			Just upstream of Old Bridge Street	*814
			Just upstream of Genesee Road	*819
			Just upstream of confluence of Bush Creek	*823
			Upstream corporate limit near Belsay Road	*825
			About 1,250 feet upstream of upstream corporate limit near Belsay Road.	*826
	Maps available at the City Hall, 227 East Grand Blanc Road, Grand Blanc, Michigan 48439.			
Michigan	(Twp) Montrose, Genesee County (Docket No. FEMA-5702).	Armstrong Creek	About 2000 feet downstream of McKinley Road	*635
			Just upstream of McKinley Road	*639
			About 3000 feet upstream of McKinley Road	*647
			About 3000 feet downstream of Dodge Road	*656
			Just upstream of Dodge Road	*662
			About 3000 feet upstream of Dodge Road	*668
			About 3000 feet downstream of Morrish Road	*673
			Just upstream of Morrish Road	*678
			Just downstream of Frances Road	*679
	Maps available at the Township Hall, Montrose, Michigan 48457.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Minnesota	(C) Glencoe, McLeod County (Docket No. FEMA-5702).	Buffalo Creek	About 2,800 feet downstream of southeast corporate limit	*989
			About 1,300 feet downstream of Hennepin Avenue	*990
			About 450 feet upstream of southwest corporate limit	*992
	Maps available at City Hall, 804 East 11th Street, Glencoe, Minnesota 55336.			
Minnesota	Newport (C), Washington County (Docket No. FEMA-5702).	Mississippi River	Downstream corporate limits	*703
			Upstream of corporate limits	*705
	Maps available at the Newport City Hall, 596 7th Avenue, Newport Minnesota 55055.			
New Mexico	Santa Fe, city of, Santa Fe County (FEMA-5713).	Santa Fe River	Just upstream of Camino Alire	*6,828
			Just upstream of Saint Francis Drive	*6,899
			Just upstream of Guadalupe Street	*6,952
			Just upstream of Delgado Street	*7,033
			Just upstream of Camino Cabra Road	*7,132
			Just upstream of Cerro Gordo Road	*7,310
		Arroyo De Los Chamisos (Main Stem).	Just upstream of Rodeo Road (Corporate limits)	*6,556
			Just upstream of Avenida De Las Campanas	*6,654
			Just upstream of Camino Carlo Rey	*6,690
			Just upstream of East Vo-Tech School Road	*6,796
			Just upstream of Saint Francis Drive	*6,855
			Just upstream of Old Pecos Trail	*7,013
			Just upstream of Old Santa Fe Trail	*7,237
		Arroyo De Los Chamisos (North Fork).	Just upstream of Avenida De Los Campanas	*6,670
			Just upstream of Camino Carlo Rey	*6,702
			Just upstream of Siringo Road	*6,761
		Arroyo De Los Chamisos (South Fork).	Just upstream of Zia Road	*6,955
		Arroyo Torreon	Just downstream of West Alameda Street	*6,822
		Canada Rincon	Upstream of Camino De Las Crucitas	*6,899
			Just upstream of Rosario Street	*6,951
		Arroyo Ranchito	Just upstream of Murales Road	*7,040
		Arroyo Mascaras	Just downstream of West San Francisco Street	*6,904
			Just upstream of Old Taos Highway	*6,998
		Arroyo De La Piedra	Just upstream of Bishop Lodge Road	*7,050
		Canada Ancha	Just downstream of Corenzo Road	*7,151
		Arroyo Saiz	Just upstream of East Palace Avenue	*7,044
	Maps available at the City Hall, Lincoln and Marcy Streets, Santa Fe, New Mexico 87501.			
New York	City of Lackawanna, Erie County (Docket No. FEMA-5725).	Smokes Creek	Confluence with Lake Erie	*581
			Bethlehem Steel Railroad	*582
			South Buffalo Railway	*583
			South Buffalo Railway	*584
			Hamburg Turnpike	*585
			Conrail	*588
			South Buffalo Railway	*589
			Conrail (400' downstream of Warsaw Street)	*590
			Conrail (285' downstream of Warsaw Street)	*591
			Electric Avenue	*592
			Upstream of South Park Avenue	*593
			Chessie System	*594
			South Shore Boulevard	*596
			1,690' upstream of South Shore Boulevard	*600
			Abbott Road	*606
			Upstream Corporate Limits	*608
		South Branch, Smokes Creek	Confluence with Smokes Creek	*590
			Conrail (420' downstream of Wood Street)	*591
			South Park Avenue	*592
			3,175' upstream of South Park Avenue	*594
			Conrail	*597
			100' upstream of Conrail	*599
			400' upstream of Conrail	*600
			New York State Thruway	*601
			Willet Road	*602
		Lake Erie	Entire Shoreline	*581
	Maps available at the City Engineer's Office, Lackawanna, New York.			
New York	Liverpool, Village, Onondaga County (Docket No. FEMA-5727).	Onondaga Lake	Intersection of Lake Parkway and Tulip Street	*373
	Maps available at the Village Hall, Second Street, Liverpool, New York.			
Ohio	(V) Cedarville, Greene County (Docket No. FEMA-5702).	Massies Creek	Southwestern corporate limit	*968
			Just downstream Bridge Street	*1,017
			Just upstream Bridge Street	*1,029
			Just upstream Main Street	*1,031
			Just upstream of Cedarville Dam	*1,033
		North Fork Massies Creek	Just upstream South Street	*1,035
		South Fork Massies Creek	Upstream corporate limit (Conrail)	*1,034
	Maps available at the Office of Village Clerk, Cedarville, Ohio 45314.			
Ohio	(C) Chagrin Falls, Cuyahoga County (Docket No. FEMA-5702).	Chagrin River	Downstream corporate limit	*836
			About 1400 feet downstream Miles Road	*846
			About 2250 feet upstream Miles Road	*869
			About 3900 feet upstream Miles Road	*886
	Maps available at City Hall, Chagrin Falls, Ohio 44022.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Clifton, Greene and Clark Counties (Docket No. FEMA-5702).	Little Miami River	Just downstream Wilberforce-Clifton Road	*987
			Just downstream dam	*994
			Just upstream dam	**1,000
			About 550 feet upstream of dam	*1,002
	Maps available at the Office of Village Clerk, Village Hall, Clifton, Ohio 45316.			
Ohio	Clinton (Village), Summit County (Docket No. FEMA-5701).	Tuscarawas River	Downstream corporate limits	*949
			North Street Bridge—150 feet upstream from centerline	*949
	Maps available at 7805 Second Avenue, Clinton, Ohio.			
Ohio	(C) Elyria, Lorain County (Docket No. FEMA-5702).	East Branch Black River	Just upstream of dam near Washington Avenue	*690
			Just downstream of dam near East Broad Street	*701
			Just upstream of dam near East Broad Street	*710
			About 5400 feet upstream of East Fourth Street	*719
		West Branch Black River	Just downstream of Lake Avenue	*683
			About 400 feet upstream of Third Street	*701
			Just upstream of Mussey Avenue	*716
			Upstream corporate limits	*722
		Shallow Flooding (ponding from Tributary 1).	Just upstream Griswold Road	*688
			Just downstream Midway Boulevard	*688
		Shallow Flooding (overflow from Tributary 1).	Just upstream State Highway 57	#1
			Just upstream Norfolk and Western Railway	#1
	Maps available at the Office of the Clerk of Council, 328 Broad Street, Elyria, Ohio 44035.			
Ohio	(C) Girard, Trumbull County (Docket No. FEMA-5702).	Mahoning River	At downstream corporate limit	*852
			At upstream corporate limit	*857
	Maps available at City Hall, 100 West Main Street, Girard, Ohio 44420.			
Oklahoma	City of Altus, Jackson County (FEMA-5713).	Stinking Creek Tributary 1	75 feet downstream of the Saint Louis San Francisco Railroad Spur Line.	*1,345
			Just upstream of Falcon Road	*1,356
		Stinking Creek Tributary 2	Just upstream of the Saint Louis and San Francisco Railroad Spur Line.	*1,345
			Approximately 300 feet downstream of Skyline Drive	*1,349
		Stinking Creek Tributary 3	Approximately 900 feet upstream of the confluence with Tributary 1	*1,365
		Stinking Creek Tributary 4	Approximately 450 feet downstream of Park Lane	*1,375
	Maps available at City Clerk's Office, City Hall, 220 Commerce Street, Altus, Oklahoma 73521.			
Oklahoma	City of Clinton, Custer County (FEMA-5713).	Washita River	Just downstream of U.S. Highway 66	*1,484
			Just upstream of U.S. Highway 183	*1,493
		Tributary #1	Just upstream of Glenn Smith Road	*1,501
			Just upstream of Highway 66	*1,537
		Tributary #2	Just upstream of Glenn Smith Road	*1,497
			Just upstream of Terrace Avenue	*1,523
	Maps available at City Hall, Clinton, Oklahoma 73601.			
Oklahoma	City of Drumright, Creek County (FEMA-5713).	Tiger Creek	Just upstream of Cemetary Road	*777
			Just upstream of East Wood Street	*799
		Little Tiger Creek	Approximately 200 feet downstream of State Highway 99	*784
	Maps available at City Clerk's Office, City Hall, West Broadway, Drumright, Oklahoma.			
Oklahoma	City of Muskogee, Muskogee County (FI-5683).	Coddy Creek	Just downstream of Country Club Rd	*517
			Approximately 300 feet upstream of Gulick Street	*534
			Just upstream of Missouri-Kansas-Texas Railroad	*552
			Just upstream of U.S. Highway 69	*572
		Corta Creek	Just upstream of Peak Boulevard	*535
			Just downstream of Cherokee Drive	*548
			Just downstream of Suburban Lane	*560
		Stream E	Just upstream of Country Club Rd	*518
			Just downstream of Hancock	*532
		Stream G	Just upstream of Gulick Street	*538
			Just downstream of Robison Avenue	*554
		Stream I	Just upstream of St. Louis & San Francisco Railroad	*572
			Just upstream of Border Avenue	*574
		Stream C	Just upstream of NE 48th Street	*521
			Just upstream of NE 45th Street	*535
		Stream C-1	Just downstream of NE 46th Street	*518
			Just upstream of Kelly Drive	*527
		Stream M	Just upstream of Shawnee Avenue	*563
			Just downstream of 54th Street	*571
	Maps available at Community Development and Planning Office, City Hall, Muskogee, Oklahoma 74401.			
Oklahoma	City of Mustang, Canadian County (FEMA-5713).	Tributary #1	Approximately 100 feet upstream of Southwest 59th Street	*1,290
			Just downstream of Oklahoma State Highway 152	*1,328
		East Branch of Tributary #1	Just downstream of Morgan Road	*1,295
		West Branch of Tributary #1	Just upstream of Southwest 59th Street	*1,292
		South Branch of Tributary 2	Just upstream of Southwest 59th Street	*1,287
			Just downstream of Southwest 74th Street (Oklahoma State Highway 152).	*1,319
	Maps available at Office of Public Works, City Hall, Mustang, Oklahoma.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Oklahoma	City of Ponca, City, Kay County (FEMA-5713).	Bois d'Arc Creek	Approximately 200 feet downstream of Prospect Street (Corporate Limits).	*974
		Tributary L	Just upstream of Irvin Street	*970
			Just upstream of Olympia Street	*974
		Tributary M	Just upstream of Waverly Street	*975
			75 feet downstream of Liberty Avenue	*995
		Tributary N	65 feet downstream of Prospect Avenue	*1,043
		Tributary O	Just downstream of Atchison Topeka and Sante Fe Railway Spur	*987
			At Hartford Avenue	*1,002
		Tributary O Left Branch	Just downstream of Hartford Avenue	*1,004
		Tributary B	Just downstream of Canterbury Avenue	*1,032
			Just downstream of Hartford Avenue	*1,040
		Tributary C	Just upstream of Lake Road	*938
			Just upstream of East Woodland Road	*1,001
		Tributary D	150 feet downstream of Monument Street	*945
			Just upstream of Pioneer Road	968
		Tributary E	Just downstream of Fourteenth Street	*949
			Just upstream of Gray Avenue	*981
		Tributary G	Approximately 50 feet downstream of Fifth Street	*977
			Approximately 50 feet upstream of Summit Avenue	*986
		Tributary H	At Twelfth Street	*933
			Just downstream of South Avenue	*956
		Tributary I	150 feet downstream of Sixth Street	*941
		Lake Ponca	Entire Shoreline inside Corporate Limits	*990
	Maps available at the office of the City Clerk, 516 East Grand Street, Ponca City, Oklahoma 74601.			
Oklahoma	City of Shawnee, Pottawatomie County (FEMA-5713).	North Canadian River	Just downstream of Beard Street	*991
			Just upstream of U.S. Highways 177 and 270	*993
			Just downstream of West Highland Street	*1,000
		Tributary #1	Just upstream of Milstead Street	*1,003
			Just upstream of 10th Street	*1,013
			Just upstream of Highland Street	*1,020
		Tributary #2	Approximately 900 feet downstream of the Chicago Rock Island & Pacific Railroad.	*1,005
		Tributary #3	Approximately 1,400 feet downstream of Leo Road	*1,015
		Tributary #4	Just upstream of 45th Street	*1,015
		Rock Creek	Just downstream of the Atchison Topeka and Santa Fe Railway	*968
		Tributary #5	Just downstream of 45th Street	*993
		Tributary #6	Just upstream of 45th street	*983
	Maps available at Community Development Office, City Hall, Shawnee, Oklahoma 74801.			
Pennsylvania	Township of Harmar, Allegheny County (Docket No. FEMA-5724).	Allegheny River	Downstream Corporate Limits	*742
			Hulton Road bridge (upstream)	*743
			Lock and Dam #3 (downstream)	*745
			Lock and Dam #3 (upstream)	*747
			Upstream Corporate Limits	*748
	Maps available at the Township Building, Harmar, Pennsylvania.			
Pennsylvania	Langhorne, Borough, Bucks County (Docket No. FEMA-5724).	Neshaminy Creek	Upstream Corporate Limits	*71
			Downstream Corporate Limits	*69
	Maps available at the Borough Hall, 114 East Maple Avenue, Langhorne, Pennsylvania.			
Pennsylvania	Borough of Mohnton, Berks County (Docket No. FEMA-5724).	Wyomissing Creek	Downstream Corporate Limits	*371
			Upsteam of footbridge about 500 feet downstream from Main Street	*383
			Main Street	*393
			Confluence with Tributary No. 2	*398
			South Church Street	*401
			Footbridge about 750 feet upstream of South Church Street	*410
			Confluence of Tributary No. 2	*414
			Dam about 350 feet downstream of West Wyomissing Avenue bridge	*425
			West Wyomissing Avenue bridge	*428
			Footbridge about 1,000 feet upstream of West Wyomissing Avenue bridge.	*438
			Upstream Corporate Limits	*443
	Maps available at the Borough Office, 21 North O'Neil, Mohnton, Pennsylvania 19540.			
Pennsylvania	Township of Newberry, York County (Docket No. FEMA-5724).	Susquehanna River	At Newberry Township and York Haven Borough corporate limits	*282
			At Downstream Newberry Township and Goldsboro Borough corporate limits.	*297
			At Upsteam Newberry Township and Goldsboro Borough corporate limits.	*298
			At upstream Newberry Township limits	*301

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
		West Conewago Creek	At Conrail bridge crossing	*281
			At confluence of Little Conewago Creek	*290
			At Sheep Bridge Road	*316
			At York Road bridge (upstream side)	*338
			At confluence of Stoney Creek (upsteam corporate limits)	*345
		Fishing Creek	At downstream Goldsboro Borough and Newberry Township corporate limits.	*299
			At Pines Road bridge	*313
Maps available at the Township Building, Old Trail Road, Newberry Township, Pennsylvania.				
Pennsylvania	O'Hara, Township, Allegheny County (Docket No. FEMA-5724).	Allegheny River	Downstream O'Hara Corporate Limits	*738
			Lock & Dam No. 2 (Upstream)	*738
			Highland Park Bridge (Upstream)	*738
			Aspinwall-O'Hara Corporate Limits	*738
			Pittsburgh-O'Hara Corporate Limits	*739
			Downstream Blawnox-O'Hara Corporate Limits	*740
			Upstream Blawnox-O'Hara Corporate Limits	*741
			Upstream O'Hara Corporate Limits	*742
Maps available at the Township Building, O'Hara, Pennsylvania.				
Pennsylvania	Putnam, Township, Tioga County (Docket No. FEMA-5724).	Tioga River	At downstream Corporate Limits	*1,187
			Downstream side of L. R. 58084 Bridge	*1,194
			Upstream side of L. R. 58084 Bridge	*1,197
			Upstream Corporate Limits	*1,206
Maps available at the Community Center, Putnam, Pennsylvania.				
Pennsylvania	Rankin, Borough, Allegheny County (Docket No. FEMA-5724).	Monongahela River	Corporate Limits (Downstream)	*738
			Corporate Limits (Upstream)	*738
Maps available at the Borough Hall, Rankin, Pennsylvania.				
Pennsylvania	Richmond, Township, Tioga County (Docket No. FEMA-5724).	Tioga River	At Downstream Corporate Limits (upstream of the Borough of Mansfield.	*1,140
			At confluence of Slate Creek	*1,150
			At upstream side of Canoe Camp Road bridge	*1,156
			Approximately 1/2 mile upstream of Canoe Camp Road Bridge along Tioga River.	*1,160
			At upstream Corporate Limits	*1,174
Maps available at the Township Building, Richmond, Pennsylvania.				
Pennsylvania	Township of Sugarloaf, Luzerne County (Docket No. FEMA-5724).	Nescopeck Creek	T-332	*701
			LR-184	*860
			T-340	*869
			Private Road Bridge	*879
			T-342	*888
		Little Nescopeck Creek	Confluence of Tributary to Little Nescopeck Creek	*884
			Keller Road (Extended)	*890
			T-338 Upstream	*926
			Private Road Upstream	*938
		Tributary G	T-339 (Downstream Side)	*900
			Borough of Conyngham downstream Corporate Limits	*921
			Borough of Conyngham upstream Corporate Limits	*954
			Upstream Legislative Route 40010	*1,002
Maps available at the Sugarloaf Township Building.				
Pennsylvania	Township of Towamencin, Montgomery County (Docket No. FEMA-5724).	Towamencin Creek	Metz Road	*180
			Morris Road	*191
			Trumbauer Road	*208
			Anders Road	*230
			Valley Forge Road	*245
		West Branch, Towamencin Creek.	Kriebel Road	*191
			Pennsylvania Turnpike	*217
			Sumneytown Pike	*227
			Kriebel Road	*243
			Allentown Road	*280

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary No. 3 of West Branch Towamencin Creek.	Confluence with West Branch Towamencin Creek	*250
			Troxell Road	*267
			Weikel Road	*282
			Woodlawn Drive	*295
		Skippack Creek	Bridge Road	*176
			Rittenhouse Road	*190
			Sumneytown Pike	*198
		Tributary No. 1 of Skippack Creek	Ivambold Road	*209
			Tomunson Road	*240
			Allentown Road	*257
	Maps available at the Township Building, Sumneytown Pike, Kultsville, Pennsylvania.			
South Carolina	Town of Holly Hill, Orangeburg County (FEMA-5713).	Home Branch	Upstream of southwestern corporate limits	*95
			Upstream of State Street	*103
			Upstream of McCoy Street	*107
			Downstream of Bunches Ford Road	*109
	Maps available at Town Hall, Holly Hill, South Carolina 29059.			
Tennessee	City of Franklin, Williamson County (FEMA-5713).	Harpeth River	Confluence of Unnamed Tributary at mile 87.4	*638
			Just upstream of State Highway 96	*642
		Unnamed Tributary to Harpeth River.	Just upstream of Porter Daniels Road	*638
			Just upstream of Drive to R. L. Vaughn, Inc	*642
		Sharps Branch	Confluence with Harpeth River	*635
			Just upstream of State Highway 96	*638
	Maps available at the City Planner's Office, 505 Fair Street, Franklin, Tennessee 37065.			
Tennessee	City of Winchester, Franklin County (FEMA-5713).	Wagner Creek	Just upstream of Spring Road	*890
			Approx. 100 feet downstream of U.S. Highway 41A	*907
			Approx. 100 feet downstream of Petty Lane	*918
	Maps available at City Hall, Business Office, 7 South High Street, Winchester, Tennessee 37398.			
Texas	City of Selma, Bexar County (FEMA-5713).	North-East Tributary	Just upstream of Live Oak Blvd	*748
		Cibolo Creek	Just upstream of Interstate Highway 35	*753
			Just upstream of Lookout Road	*759
		Selma Creek	Just upstream of Interstate Highway 35	*757
			Just upstream of Lookout Road	*770
	Maps available at City Hall, Selma, Texas.			
Vermont	Town of Bridgewater, Windsor County (Docket No. FEMA-5723).	Ottauquechee River	Downstream corporate limits	*816
			Downstream of Town Highway No. 46	*817
			4,000 feet above Town Highway No. 46	*827
			Confluence of Broad Brook	*842
			Upstream of State Route 100A	*851
			Confluence of North Branch	*862
			Upstream Town Highway No. 70	*919
			Upstream Town Highway No. 34	*987
			Confluence of Reservoir Brook	*1,049
			Upstream corporate limits	*1,066
		North Branch	Upstream of Town Highway No. 36	*873
			Upstream of Town Highway No. 53	*903
			Downstream of Town Highway No. 35	*950
		Broad Brook	Confluence with Ottauquechee River	*842
			3,000 feet above confluence with Ottauquechee River	*859
			Confluence of Pinney Hollow Brook	*890
	Maps available at the Town Office, Bridgewater, VT.			
Vermont	(T) Poultney, Rutland County (Docket No. FEMA-5702).	Poultney River	About 1650 feet downstream Granville Street	*402
			About 300 feet downstream Granville Street	*403
			Just upstream Granville Street	*409
			About 700 feet downstream Delaware and Hudson railway	*410
			Just downstream Delaware and Hudson railway	*413
			Just upstream Delaware and Hudson railway	*418
			Just upstream South Street	*419
			About 900 feet upstream South Street	*421
			About 150 feet downstream Bridge Street	*426
			About 200 feet upstream Bridge Street	*437
			About 2200 feet upstream Bridge Street	*438
			About 4000 feet upstream Bridge Street	*442
	Maps available at Town Office, Poultney, Vermont 05764.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Vermont	(V) Poultney, Rutland County (Docket No. FEMA-5702).	Poultney River	About 1650 feet downstream Granville Street	*402
			About 300 feet downstream Granville Street	*403
			Just upstream Granville Street	*409
			About 700 feet downstream Delaware and Hudson railway	*410
			Just downstream Delaware and Hudson railway	*413
			Just upstream Delaware and Hudson railway	*418
			Just upstream South Street	*419
			About 900 feet upstream South Street	*421
			About 150 feet downstream Bridge Street	*426
			About 200 feet upstream Bridge Street	*437
			About 2200 feet upstream Bridge Street	*438
			About 3100 feet upstream Bridge Street	*440
	Maps available at the Town Office, Poultney, Vermont 05764.			
Vermont	(T) Stowe, Lamoille County (Docket No. FEMA-5702).	Little River	Approximately 1,370 feet downstream of Adam's Dam	*624
			Approximately 130 feet upstream of Adam's Dam	*629
			At Wood Product Dam approximately 600 feet downstream of Moscow Road.	*643
			At the River Road Bridge	*664
			At Corporate Limits	*687
		West Branch Little River	At Corporate Limits	*710
			Just upstream State Route 108	*739
			Just upstream Luce Hill Road Bridge	*765
			Just upstream Brook Road	*889
			Just downstream State Route 108, approximately 3,860 feet upstream from Brook Road.	*960
		East Branch Little River	At Corporate Limits	*709
			Just upstream West Hill Road	*712
			Just at Each Branch Confluence with Moss Glen Brook	*725
		Sterling Brook	Just upstream Tanzey Road	*735
			Just downstream Moulton Land Bridge	*752
		Moss Glen Brook	Just downstream Stage Coach Road	*725
			Just upstream Stage Coach Road	*729
			Just downstream State Route 100	*741
	Maps available at Town Office, Stowe, Vermont 05672.			
Virginia	Town of Coeburn, Wise County (Docket No. FEMA-5723).	Guest River	Interstate Railroad (upstream)	*1,985
			Confluence of Toms Creek	*1,986
		Toms Creek	May Avenue	*1,986
			Lincoln Street (upstream)	*1,992
			Upstream Corporate Limits	*1,995
		Little Toms Creek	High Street	*1,986
			Dickerson Avenue (upstream side)	*1,996
			Spruce Street (upstream side)	*2,000
			Upstream Corporate Limits	*2,008
	Maps available at the Town Hall, Main Street, Coeburn, Virginia.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: January 30, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-4576 Filed 2-13-80; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 66

[CGD 79-060]

Sitka and Wrangell, Alaska; Revocation as Ports of Documentation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the designation of Sitka and Wrangell, Alaska, as ports of documentation. The rationale for this action is threefold. First, the U.S. Customs Service, which presently provides documentation service to these two ports, is no longer able to do so. Second, the cost of maintaining full or part-time Coast Guard personnel at these ports cannot be justified in light of the limited amount of documentation business conducted there. Third, all of the documentation services being terminated at Sitka and Wrangell, may be accomplished by mail through the documentation offices at Juneau and Ketchikan, respectively, with a minimal amount of inconvenience to the public. The overall result of this action will be an adequate, more efficient system of documentation in Alaska.

EFFECTIVE DATE: This amendment is effective on: March 14, 1980.

FOR FURTHER INFORMATION CONTACT: LTJG Phillip J. Heyl, Office of Merchant

Marine Safety (G-M/TP24), Room 2408, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20590 (202) 426-2299.

SUPPLEMENTARY INFORMATION: On October 4, 1979, the Coast Guard published a proposed rule (44 FR 57137) concerning this amendment. Interested persons were given until November 19, 1979, to submit written comments. No public hearing was held. One comment was received.

Drafting Information

The principal persons involved in drafting this regulation are: Lieutenant (jg) Phillip J. Heyl, Project Manager, Officer of Merchant Marine Safety, and Lieutenant Jack Orchard, Project Attorney, Office of the Chief Counsel.

Discussion: The only comment received was submitted by the Greater Sitka Chamber of Commerce, Inc. In its comment, the Chamber of Commerce suggested that either the Customs Service officer in Sitka continue to perform the vessel documentation work at Sitka or that it be performed by personnel at the Sitka Coast Guard Air Station. Additionally, the Sitka Chamber of Commerce expressed the opinion that the revocation of the designation of Sitka as a port of documentation would be detrimental to the efforts to encourage bottom fishing in surrounding waters and to the building of a freezing and processing plant.

When the vessel documentation functions were transferred from the Customs Service to the Coast Guard in February 1967, no documentation position was transferred to perform the vessel documentation work at Sitka. The Customs Service agreed to permit their employee at Sitka to perform vessel documentation functions when it did not interfere with his customs work. Although the formal agreement terminated in 1968, the arrangement was continued informally. On July 3, 1973, the District Director of Customs met with the Commander of the Seventeenth Coast Guard District and repeated his previously expressed desire that the Coast Guard assume the Coast Guard vessel documentation work in Sitka as well as in the other places in Alaska where the Customs Service was performing the work.

By 1974, perhaps due to an increased Customs Service workload, there was a decrease in productivity of vessel documentation work performed in Sitka, and it became necessary for Coast Guard vessel documentation personnel from Juneau to periodically travel to Sitka to handle documentation applications presented at Sitka. After 1977, the necessity for trips to Sitka increased in frequency and culminated with the decision in late 1978 to transfer the Sitka records to Juneau. This was deemed necessary for purposes of efficiency and economy. For the past several months all vessel documentation work for Sitka has been performed at Juneau on a timely basis. No complaints have been received as to the timeliness of the documentation service, the mail service, or in any respect. Coast Guard personnel at the Sitka Coast Guard Air Station are trained in the specific requirements for air station assignments. The requirements and training for performing the vessel documentation functions are not compatible with the nature and requirements of air station assignments. The Customs Service will continue to renew licenses and endorse changes of master at the Sitka Customs Office as these are the most frequently occurring vessel documentation transactions. The Coast Guard does not feel that the revocation of Sitka as a port of documentation will have any impact on the development of bottom fishing or the building of a freezing or processing plant.

Effective on March 14, 1980 the Coast Guard will:

(a) Close the documentation office at Sitka and—

(1) Transfer its documentation records to the Commanding Officer, Marine Safety Office, Juneau, Docmentation Branch, 612 Willoughby Avenue, Juneau, Alaska, 99801[1]

(2) Designate Juneau as the home port of all vessels now having Sitka as their home port.

(b) Close the documentation office at Wrangell and—

(1) Transfer its documentation records to Supervisor, USCG Marine Safety Detachment, Documentation Branch, c/o Coast Guard Base, Ketchikan, Alaska 99901.[1]

[1] Note address change since NPRM of October 4, 1979.

(2) Designate Ketchikan as the home port of all vessels now having Wrangell as their home port.

Furthermore, an editorial error in the designation of the Marine Inspection Zones and Ports of Documentation in the Seventeenth Coast Guard District has been uncovered. The Marine Inspection Zone entry of "Juneau" should read "Southeast Alaska" and the port of documentation designation of "Southeast Alaska" should read "Juneau."

This proposal has been reviewed under the Department of Transportation's Regulatory Policies and Procedures" (44 FR 11034), February 26, 1979. A final evaluation of the proposal has been prepared and has been included in the public docket.

In consideration of the foregoing, the Coast Guard amends Part 66 of Title 46 of the Code of Federal Regulations by revising the following entry to read as follows:

§ 66.05-1 Ports of documentation.

* * * * *

Seventeenth	Southeast Alaska	Juneau, Alaska. Ketchikan, Alaska.

(23 Stat. 118 (46 U.S.C. 2); 43 Stat. 947 (46 U.S.C. 18); 80 Stat. 937 (49 U.S.C. 1611(b)(1)); 46 CFR 67.23-11; 49 CFR 1.46(b))

Dated: February 7, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80-4781 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

49 CFR Part 192

[Amdt. 192-34A, Docket PS-54]

Transportation of Natural and Other Gas by Pipeline; Joining of Plastic Pipe

February 11, 1980.

AGENCY: Materials Transportation Bureau.

ACTION: Final rule.

SUMMARY: A final rule was published July 23, 1979, (Amdt. 192-34; 44 FR 42068), establishing tests for qualifying procedures and personnel to make all types of joints in plastic pipeline used in the transportation of natural and other gas by pipeline. The docket was held

open until September 30, 1979, for further comments.

In response to comments, MTB has made certain changes to that final rule. The most significant changes: (1) permit the use of any force on a specimen lateral joint that initiates failure, (2) permit tensile testing at ambient temperature and humidity; (3) more clearly define the criteria for test specimen acceptance or failure; (4) permit joining of pipe and fittings manufactured before July 1, 1980, in accordance with existing procedures without requalifying those procedures; (5) permit alternative test methods for qualifying persons to make heat fusion, solvent cement, or adhesive joints; and (6) redefine and limit the conditions under which a person must requalify to make plastic pipe joints.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, (202) 426–2392.

SUPPLEMENTARY INFORMATION: Final rules (Amendment 192–34) were published (44 FR 42968, July 23, 1979) establishing tests for qualifying procedures and personnel to make all types of joints in pipelines used in the transportation of natural and other gas.

In the preamble of the final rules, MTB invited further comments concerning the effect upon safety of three amendments: (1) The addition of new § 192.283(a)(1), which established alternative burst tests for qualifying plastic pipe joining procedures (Paragraphs 8.6 or 8.7 of ASTM D2513); (2) repeal of the existing requirement in § 192.281(a) for qualifying mechanical joining procedures by burst testing specimen joints; and (3) the use of an impact-type test under new § 192.283(a)(2) to qualify the tensile strength of lateral connections. In addition to the specific comments requested on these three amendments, many other comments were submitted on the final rule. Most of these additional comments have been treated by MTB as petitions for reconsideration, and are being considered in this document. Several of the additional comments are not being treated as petitions for reconsideration because the comments requested action that would go beyond the scope of the notice or proposed rulemaking (NPRM) (43 FR 49334). In view of the extended comment period and MTB's reconsideration of the final rule in this document, the docket will not remain open for 30 days following publication of this document in the **Federal Register** for receipt of petitions for reconsideration under 49 CFR 106.35. Instead, any further comments or petitions received in Docket PS–54 will be treated as petitions for rulemaking.

In response to the request for comments to the final rule, 43 persons submitted comments. Although most commenters represented themselves or their companies, at least five commenters were representing industry groups that included the American Gas Association, the New England Gas Association, the Pennsylvania Gas Association, the Plastic Pipe Institute, and the Texas Gas Association. The disposition of comments, including those treated as petitions for reconsideration, together with the reasons for accepting or rejecting these comments follow:

Who Can Qualify Joining Procedures

Seven commenters argued that the regulations should state that operators may qualify their own joining procedures by performing the required tests or basing the qualification on testing done by others, such as the manufacturers of the pipe or fittings involved, other operators, or other qualified persons. MTB wishes to emphasize that for compliance with the new §§ 192.283 and 192.285, just as for compliance with other testing requirements of Part 192, it does not matter who does the qualification testing, either the operator or someone else, but the operator is bound to assure that proper testing is done. If the operator adopts a procedure that was improperly qualified by himself or others, it is still the operator who is responsible for compliance on his pipeline. Because the ultimate duty of compliance with the testing requirements lies with the operator, the regulations do not state who may do the required testing, but only establish that such testing be performed.

Qualifying Procedures To Make Joints

Burst Tests. There were eight commenters who recommended that under § 192.283(a)(1), the burst testing of heat fusion, solvent cement, or adhesive joints be limited to the sustained pressure test (ASTM D1598) as modified by Paragraph 8.6 of ASTM D2513. If adopted, this recommendation would eliminate the use of the minimum hydrostatic burst pressure test (ASTM D1599) as modified by Paragraph 8.7 of ASTM D2513 that was originally proposed in the NPRM and included in the final rule. These commenters state that the sustained pressure test is a much more severe test that would detect flaws that would not be detected by the minimum hydrostatic burst pressure test. Although MTB agrees with this latter statement, we also believe that the minimum hydrostatic burst pressure test in combination with the required tensile testing will detect the flaws that would cause failure under service conditions. At least three commenters concurred with MTB in the use of this test, citing their own successful experience. One commenter also recommended eliminating all burst tests as ineffective. Because of conflicting opinions and lack of solid data to support use of only the more stringent test, MTB is retaining the burst test requirements as issued.

Lateral Connections. With one exception, all those who commented on the use of the impact test for qualifying procedures for making joints on lateral connections agreed that it was a valid test. Of those commenters agreeing with the use of the impact test, there were five who suggested methods other than impact for deforming the test specimen (such as by torsion, bending, and pinching or combinations of these). Since failure of the specimen rather than the means of failure is the critical aspect of the text, MTB believes the suggested alternative test methods would be equally as effective as the impact test. The one commenter who disagreed with the use of an impact force to test lateral connections stated that it would be ineffective on service tees and may lead to dangerous practices. He offered no viable alternative other than visual inspections as are required under § 192.285(a)(2)(i) during qualification of persons to make joints. Because of the above, MTB has amended § 192.283(a)(2) in a manner to permit the use of a force of any kind in testing the strength of lateral connections rather than only permitting an impact force.

Two commenters considered that in § 192.283(a)(2), the phrase "pipe sections joined at right angles" implied the use of miter type joints. MTB does not agree with this since miter joints are clearly prohibited on plastic pipe in gas service by § 192.281(a). Thus, preparing a specimen lateral connection for testing in accordance with § 192.283(a)(2) would involve some type of fitting between pipe sections.

Criteria for Force Tests. At least two commenters suggested that the criterion for judging the failure of all types of specimen joints during testing should be clarified by indicating that the important point is where the failure initiates. MTB had intended this in the original wording and as a result has changed the phrase "failure occurs outside the joint area" to read "failure initiates outside the joint area" where appropriate in the final rule.

Tensile Tests. Three commenters objected to incorporation by reference of ASTM D638 as the tensile test for heat fusion, solvent cement, or adhesive

joints. One stated that the D638 requirements for specimen configurations were too exotic for practical use. A second suggested deleting D638 and specifying tensile requirements in the regulations. A third stated that a tensile test will not necessarily detect faulty butt-fusion joints. None of these commenters presented any data in support of their statements or recommended viable alternatives. Therefore, MTB is not convinced that it is inappropriate to incorporate by reference D638, the most widely recognized industry standard MTB is aware of that is intended to test the tensile strength of plastic pipe materials (which include a joint segment).

Several commenters pointed out that specifying particular temperature and humidity conditions for tensile pull testing will not effect improved test precision and does not simulate field use conditions, but adds to the cost of compliance. MTB agrees with this assessment in that the testing is intended to show whether joints meet the "go/no-go" criterion with the specific materials involved rather than to evaluate material properties. As a result, MTB has amended § 192.283(b)(1) to permit testing done under ASTM D638 to be performed at ambient temperature and humidity.

One commenter pointed out that in testing large diameter mechanical joints, the requirement for 5 pipe diameters between the joint and pulling machine grips in § 192.283(b)(3) would require massive tensile testing machines that are not available. In reviewing this problem, MTB recognizes that the intent of this requirement is to preclude any effect on the strength of the joint by attachment of the test sample to the testing apparatus. By changing to performance language, other means of eliminating this effect may be utilized. As a result, MTB has eliminated the requirement for 5 pipe diameters in favor of the performance requirement that the distance between the grips of the apparatus and the end stiffener may not affect the joint strength. This requirement has been relocated in § 192.283(b)(2).

Two commenters pointed out that ASTM D638 does not contain criteria for a "go/no-go" determination on joints being tested. Three commenters suggested the criteria should be failure of the specimen initiating outside the joint area or no less than 25% elongation of the specimen without failure. Based on similar criterion established for mechanical joints, MTB believes 25% elongation is an adequate indication of joint strength. The criterion of specimen failure is also valid because it relates joint strength to pipe strength and includes the important point that failure may not initiate in the joint area. As a result, the requirements of § 192.283(a)(2) for testing heat fusion, solvent cement, and adhesive joints have been amended to include these criteria. Similarly, for mechanical joints, failure of the specimen has been added as a test criterion to § 192.283(b) in addition to the 25% elongation standard that was included in the final rule.

Five commenters pointed out in regard to tensile tests for mechanical joints, that for larger pipe such as 16 inch diameter SDR 11 polyethylene pipe, the theoretical force resulting from a temperature change of 55.6° C (100° F) would be 90,000 pounds or greater. There are no mechanical fittings available that would withstand such tensile forces. MTB agrees with a suggested solution to this problem that would permit mechanical joining procedures on larger pipe to be qualified on the basis of actual resistance to tensile pull determined by the required testing, as long as the determined tensile strength of the joint does not exceed the manufacturer's rating. Because of this, MTB has amended the wording of § 192.283(b)(5) to permit such a practice.

One commenter stated that the regulations in § 192.283(b) for testing mechanical joints should recognize that there are mechanical fittings made to provide a gas seal only and others designed for both seal and longitudinal restraint. This commenter further argued that "seal only" mechanical joints should not be permitted to be used under conditions for which they were not designed by the manufacturer. In other words, operators should not be permitted to qualify these types of joints for use where longitudinal restraint is needed. The lead-in exception clause in § 192.283(b) was intended to exclude the "seal only" type joints from testing, but this point has been clarified in the final rules by limiting the applicability of § 192.283(b) to mechanical joints that are designed to withstand tensile forces, and for pipe 4 inches and larger where the specimen joint is permitted to be qualified at tensile strengths less than that of the pipe, the tensile stress permitted in the design calculation may in no case be more than the manufacturer's rating.

One commenter pointed out that in performing tensile testing of mechanical joints, the present wording of § 192.283(b)(8) would require excessive testing, since each pipe size for each wall thickness must be tested. This commenter argued that any joint that would qualify with heavy walled pipe would also qualify with lighter walled pipe. MTB has considered this point and believes there is no safety advantage in requiring each wall thickness of a particular size and material to be tested. Because of this, MTB is changing the newly designated requirement of § 192.283(b)(7) to permit testing of a heavier wall pipe joint to qualify joints made from pipe of the same material but with a lesser wall thickness.

One commenter stated that in testing mechanical joints, there seems to be confusion between qualifying a particular fitting and qualifying a procedure to properly install that fitting. He further stated that basing a plastic joining procedure upon destructively testing an entire test specimen has no more merit than destructively testing an entire welded assembly in qualifying a weld procedure. MTB does not agree with this because the final rule does not require the qualification of fittings but rather the qualification of joining procedures and persons who make joints with fittings. In § 192.283(b), we are also dealing with mechanical joints that have no similarity to welded joints. In addition, these tests are designed to compare joint strength to a stress level related to pipe strength. Thus, testing an assembly or joint specimen is considered appropriate.

At least nine commenters agreed with MTB that a burst test for mechanical joints is meaningless. There were no adverse comments.

Regarding § 192.283(c), seven commenters agreed that joining procedures needed to be available to inspectors and persons making joints, but not necessarily available at the job site as required by § 192.283(c). One commenter stated that if operators or inspectors need copies of each written procedure at the work site, they probably are not well qualified and should not be making joints. After reconsideration of this, MTB agrees that qualified persons joining and inspecting joints should know the applicable joining procedure thoroughly and as a result has deleted from § 192.283(c) the phrase "at the site where joining is accomplished." Under the final rule, copies would still have to be available to personnel.

One commenter pointed out that the wording of Amdt. 192–34 would preclude the use of considerable quantities of previously manufactured pipe and fittings now in warehouse stocks, the joining of which has been qualified by tests similar to those being required by this rulemaking, unless some provision is made to "grandfather" the continued

use of these materials. MTB agrees that such an economic loss would be unwarranted provided the joint produced by such materials using previously qualified procedures would be as strong as the pipe. As a result, MTB has added a new § 192.283(d) to permit the joining of material made before July 1, 1980, in accordance with procedures that the manufacturer certifies will produce a joint as strong as the pipe.

Qualifying Persons To Make Joints

Six commenters pointed out that in qualifying persons to make joints under § 192.285(a)(2)(i), mechanical joints could not be judged solely on the appearance of the completed joint. MTB did not intend this result because on mechanical joints the required inspection must be made during assembly to assure that the proper procedure is followed. Photographs showing each step of the assembly procedure on a qualified specimen joint are effective in providing a standard for comparison. In view of this comment however, MTB has inserted the phrase, "during and after assembly or joining," in the requirement which is relocated in § 192.285(b)(i) to make it clear that this visual examination must be performed at each step of the joining process.

Seven commenters proposed that test methods, in addition to destructively testing straps from a specimen joint, be permitted for qualifying persons to make heat fusion, solvent cement, or adhesive joints under § 192.285(a)(2)(ii). Convincing arguments were presented for using as a qualifying test any of the test methods permitted under § 192.283(a) for qualifying joining procedures as well as ultrasonic inspection. In addition, most of these comments emphasized that the term "destructively tested" requires a fracture of some part of the specimen, although this is often inappropriate because deformation of the joint area without fracture would detect flaws in the specimen by producing a failure or visible cracks. If a test shows no failure of the specimen under deformation or no visible cracks, a good joint is produced. In addition, some of these commenters argued in favor of allowing bending, torque, or impact forces to produce this deformation. After a thorough evaluation of these comments, the MTB is convinced that all of these methods will adequately detect significant flaws in joints being inspected and has amended the requirement which is relocated in § 192.285(b)(2) to permit, as personnel qualifying tests, for heat fusion, solvent cement, or adhesive joints, tests under §192.283(a) or examination by ultrasonic inspection showing no flaws that could cause failure. In addition, the existing test regarding the use of at least 3 longitudinal straps is changed by amending the words "destructively tested" to read "deformed by bending, torque, or impact."

One commenter recommended that in § 192.285(a)(2)(ii)(A) between the words "discontinuities" and "on" the phrase "greater than two millimeters average diameter" be added because heat fusion joints of 3 inches and larger diameter sometimes have small shrinkage voids that do not interfere with safe operation of the pipeline. MTB did not adopt this comment since no data was found to support the proposition that some voids can be identified as acceptable.

Four commenters stated that under § 192.285(a)(2)(ii), the longitudinal straps should be required to be taken 120° apart and not required at all on pipe less than 2 inches in diameter. MTB does not agree with this recommendation. We believe that specification of strap location would serve no useful purpose and that regardless of the pipe diameter, the straps provide a good means to visually inspect the cross section of the joint area as well as providing a manageable size specimen for additional testing. This requirement has been relocated in § 192.285(b)(iii).

Requalification of Persons to Make Joints. Nine commenters stated that in establishing a requirement for requalification of a person to make joints under § 192.285(b) that is based upon faulty joints, only joints left in the pipeline as satisfactory and later detected to be faulty by pressure testing or operation of the pipeline should be considered. These same commenters pointed out, however, that to determine who had made each joint that failed during operation of the pipeline would require excessive recordkeeping that would not be cost effective. While MTB agrees that only faulty joints left in the pipeline affect safety and that record-keeping required to determine who made a joint that fails during pipeline operation would be excessively costly, the underlying intent of this final rule is to preclude the existence of faulty joints before a pipeline goes into operation. The required pressure test under § 192.513 serves this intent by subjecting joints to at least 150 percent of the maximum allowable operating pressure which should detect faulty joints. For this reason, MTB has amended this requirement which is relocated in § 192.285(c)(2) to limit the joints considered in applying the requalification requirements to those found by pressure testing under § 192.513.

One commenter stated that requiring requalification on the basis of making 3 bad joints a year does not recognize that some persons may make only a few joints per year while others may make many times that in just one day. This commenter further pointed out that field conditions such as rain, snow, blowing dirt, trench cave-ins, equipment malfunctions, and material flaws would affect the joining process without reflecting a lack of skill or proper training. He suggested that for those persons making large numbers of joints, it would be more equitable to require requalification if 3 percent or more of the production joints left in the line by the person making joints were found unacceptable. MTB agrees with this because limiting the threshold for requalification to only 3 faulty joints per year could cause the most highly qualified persons to be disqualified as a result of the large number of joints that are made that may involve conditions beyond the joiner's control. Because of this, MTB has amended the requirement which is relocated in § 192.285(c)(2) to require a person to be requalified under the applicable procedure if 3 joints or 3 percent of the joints made, whichever is greater, are found unacceptable by the required pressure test under § 192.513.

Two commenters argued that requalification should be required for persons who during the preceding 12 months have not been tested under the applicable procedure or made acceptable production joints. Both of these commenters and a third commenter also recommended requiring an annual requalification. MTB proposed an annual requalification in the NPRM, but it was not adopted in the final rules in favor of a less stringent and less costly requirement. MTB does, however, agree that a person who has not made acceptable production joints in the preceding 12 months should be required to be requalified because it is likely that some details of the procedure would be forgotten. Thus, MTB has amended the requirement which is relocated in § 192.285(c)(1) to require requalification in a procedure when no joints are made under the procedure during a 12-month period.

Inspection of Joints

There were eleven commenters who stated that MTB's interpretation in the preamble of the final rules of § 192.273, indicating that an adequate inspection of a production joint cannot be performed by the person who makes the joint, is unrealistic, excessively expensive, and does not assure safety.

Comments indicated that in most cases the inspection requirement of § 192.273(c) is met by the person making the joint, but some operators do spot check joining performance by their personnel. One commenter stated that imposition of a second qualified joiner on every company crew for the purpose of inspection will not improve the joint quality or improve the safety of plastic pipe construction, but will increase the cost of construction substantially. Another commenter stated that during 1978, approximately 720,000 heat fusion joints were installed in his system (one of the largest in the U.S.) and the cost of having a second person inspect each of these would have been substantial. As a result of these comments and after reviewing the history and purpose of § 192.273(c), MTB is persuaded that interpreting § 192.273(c) to require a second person to inspect each joint is not cost effective and not consistent with the intent of the rule as originally written. Therefore, the inspection of joints in plastic pipe required under § 192.273(c) may be performed by the person making joints, provided that person also is qualified under § 192.287 as required by the new § 192.285.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as follows:

1. By revising § 192.283 to read as follows:

§ 192.283 Plastic pipe; qualifying joining procedures.

(a) *Heat Fusion, Solvent Cement, and Adhesive Joints.* Before any written procedure established under § 192.273(b) is used for making plastic pipe joints by a heat fusion, solvent cement, or adhesive method, the procedure must be qualified by subjecting specimen joints made according to the procedure to the following tests:

(1) The burst test requirements of Paragraph 8.6 (Sustained Pressure Test) or Paragaph 8.7 (Minimum Hydrostatic Burst Pressure) of ASTM D 2513.

(2) For procedures intended for lateral pipe connections, subject a specimen joint made from pipe sections joined at right angles according to the procedure to a force on the lateral pipe until failure occurs in the specimen. If failure initiates outside the joint area, the procedure qualifies for use; and

(3) For procedures intended for nonlateral pipe connections, follow the tensile test requirements of ASTM D638, except that the test may be conducted at ambient temperature and humidity. If the specimen elongates no less than 25 percent or failure initiates outside the joint area, the procedure qualifies for use.

(b) *Mechanical Joints.* Before any written procedure established under § 192.273(b) is used for making mechanical plastic pipe joints that are designed to withstand tensile forces, the procedure must be qualified by subjecting 5 specimen joints made according to the procedure to the following tensile test:

(1) Use an apparatus for the test as specified in ASTM D638–77a (except for conditioning).

(2) the specimen must be of such length that the distance between the grips of the apparatus and the end of the stiffener does not affect the joint strength.

(3) The speed of testing is 5.0 mm (0.20 in) per minute, plus or minus 25 percent.

(4) Pipe specimens less than 102 mm (4 in) in diameter are qualified if the pipe yields to an elongation of no less than 25 percent or failure initiates outside the joint area.

(5) Pipe specimens 102 mm (4 in) and larger in diameter shall be pulled until the pipe is subjected to a tensile stress equal to or greater than the maximum thermal stress that would be produced by a temperature change of 55.6° C (100° F) or until the pipe is pulled from the fitting. If the pipe pulls from the fitting, the lowest value of the five test results or the manufacturer's rating, whichever is lower must be used in the design calculations for stress.

(6) Each specimen that fails at the grips must be retested using new pipe.

(7) Results obtained pertain only to the specific outside diameter, and material of the pipe tested, except that testing of a heavier wall pipe may be used to qualify pipe of the same material but with a lesser wall thickness.

(c) A copy of each written procedure being used for joining plastic pipe must be available to the persons making and inspecting joints.

(d) Pipe or fittings manufactured before July 1, 1980, may be used in accordance with procedures that the manufacturer certifies will produce a joint as strong as the pipe.

2. By revising § 192.285 to read as follows:

§ 192.285 Plastic pipe; qualifying persons to make joints.

(a) No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by—

(1) Appropriate training or experience in the use of the procedure; and

(2) Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section.

(b) The specimen joint must be—

(1) Visually examined during and after assembly or joining and found to have the same appearance as a joint or photographs of a joint that is acceptable under the procedure; and

(2) In the case of a heat fusion, solvent cement, or adhesive joint:

(i) tested under § 192.283;

(ii) Examined by ultrasonic inspection and found not to contain flaws that would cause failure; or

(iii) Cut into at least 3 longitudinal straps, each of which is—

(A) Visually examined and found not to contain voids or discontinuities on the cut surfaces of the joint area; and

(B) Deformed by bending, torque, or impact, and if failure occurs, it must not initiate in the joint area.

(c) A person must be requalified under an applicable procedure, if during any 12-month period that person—

(1) Does not make any joints under that procedure; or

(2) Has 3 joints or 3 percent of the joints made, whichever, is greater, under that procedure that are found unacceptable by testing under § 192.513.

(d) Each operator shall establish a method to determine that each person making joints in plastic pipelines in his system is qualified in accordance with this section.

(49 U.S.C. 1672; 49 U.S.C. 1804 with regard to offshore gathering lines; 49 CFR 1.53 and Appendix A of Part 1).

Issued in Washington, D.C., on February 11, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-4810 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 77-03; Notice 5]

Passenger Automobile Average Fuel Economy Standards; Exemption From Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final decision to grant exemption from average fuel economy standards.

SUMMARY: This notice exempting Checker Motors Corporation (Checker) from the generally applicable average fuel economy standards of 19.0 miles per gallon (mpg) and 20.0 mpg for 1979 and 1980 model year passenger automobiles, respectively, and establishing

alternative standards is issued in response to a petition by Checker. The alternative standards are 16.5 mpg for the 1979 model year and 18.5 mpg for the 1980 model year.

DATE: The exemptions and alternative standards apply in the 1979 and 1980 model years.

FOR FURTHER INFORMATION CONTACT: Robert A. Mercure, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202–755–9384).

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration (NHTSA) is exempting Checker from the generally applicable passenger automobile average fuel economy standards for the 1979 and 1980 model years and establishing alternative standards.

These exemptions are issued under the authority of section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act). Section 502(c) provides that a manufacturer of passenger automobiles that manufactures fewer than 10,000 passenger automobiles annually may be exempted from the generally applicable average fuel economy standard if that generally applicable standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if the NHTSA establishes an alternative standard applicable to that manufacturer at the level of its maximum feasible average fuel economy. In determining the manufacturer's maximum feasible average fuel economy, section 502(e) of the Act requires NHTSA to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

This final rule was preceded by a proposed decision to grant Checker's request for exemptions in the 1979 and 1980 model years and to establish alternative standards of 17.6 mpg and 18.6 mpg, respectively. The proposed decision was published at 43 FR 49336; October 23, 1978. Two comments were submitted in response to the proposed decision. One comment came from a private citizen supporting the proposed decision, and stating that Checker automobiles were necessary to him as taxis, because he does not own an automobile. The other comment was submitted by Checker itself. Checker requested that the rulemaking be delayed on its petition until it had more exact fuel economy information available for its 1979 and 1980 model year automobiles.

The agency has all of the information referred to in Checker's comment except the official fuel economy figures for its 1980 automobiles. For the agency to establish a policy of consistently waiting to set an alternative standard for a particular model year until it had the official fuel economy figures for that model year's cars could adversely affect the agency's ability to require fuel economy improvements by the low volume manufacturers. Accordingly, the agency is proceeding with its rulemaking. If additional relevant information becomes available to Checker, it can submit that information in support of a petition for reconsideration of the rulemaking.

NHTSA's projection of Checker's maximum feasible average fuel economy for the 1979 model year was based on the following data:

Model type	Projected MY 1979 sales	Projected fuel economy level (miles per gallon)	Change in fuel economy compared with 1978
6-cylinder Federal	2,600	18.6	+0.1
6-cylinder California	1,400	17.0	+0.1
8-cylinder Federal	600	16.8	−0.2
8-cylinder California	145	12.6	−0.2
Total	4,745		

The net result of this projection was that Checker's 1979 maximum feasible average fuel economy level would be 17.6 mpg, the same as its maximum feasible average fuel economy level for the 1978 model year. This analysis assumed that Checker could use a lower rear axle ratio on its 6-cylinder models, and that use of this lower ratio would increase fuel economy by five percent. However, the agency projected that these models would have their maximum feasible fuel economy levels lowered by 0.8 mpg because of changes in the fuel economy testing procedures used by the Environmental Protection Agency (EPA). The net result was that NHTSA projected the 6-cylinder Checker models could show a 0.1 mpg increase in fuel economy for the 1979 model year. The 8-cylinder models were projected to have a 0.2 mpg loss in fuel economy because of EPA's test procedure changes.

NHTSA now has additional information which has caused this agency to revise downward its estimate of Checker's 1979 maximum feasible average fuel economy. Checker did use the lower rear axle ratio projected by the agency on its 6-cylinder models. However, the fuel economy levels actually achieved by Checker's 1979 models are significantly different from the projected fuel economy levels, as shown by the following table:

[Miles per gallon]

Model type	Forecast 1979 fuel economy	Actual 1979 fuel economy	Difference
6-cylinder Federal	18.6	16.9	−1.7
6-cylinder California	17.0	16.8	−0.2
8-cylinder Federal	16.8	15.8	−1.0
8-cylinder California	12.6	13.3	+0.7

As can be seen from this table, the NHTSA forecasts of the fuel economy that could be achieved by Checker's 1979 automobiles were overstated in three of the four cases. The reason for this difference apparently stems from the test-to-test variability in the EPA fuel economy tests when conducted on the same automobiles. When the same automobile is tested at different times according to the procedures specified by EPA, its tested fuel economy will not necessarily be identical in the two tests. The tested fuel economy can vary within a limited range. This variability cancels itself out when testing a large fleet of automobiles, with some models registering on the high side of the range and others registering on the low side. General Motors, for instance, tests about 260 vehicles annually to determine its corporate average fuel economy. Checker, however, tests only four vehicles annually, and three out of these four registered fuel economy on the lower side of the range. With this small sample, the effects of the test-to-test variability did not cancel out. It was not possible for NHTSA to predict the effects of this variability when calculating Checker's 1979 maximum feasible average fuel economy, and therefore, the possible effects of such variability were not considered in the proposed decision.

In addition to this, Checker has made some mix shifts in its 1979 fleet. The following table shows the projected sales assumed in the proposed decision and the sales mix which Checker actually will have for the 1979 model year:

Model Type	1979 Sales (Projected)	1979 Sales (Actual)
6-cylinder Federal	2600	3038
6-cylinder California	1400	1354
8-cylinder Federal	600	376
8-cylinder California	145	307

However, this mix shift did not increase or decrease Checker's 1979 average fuel economy. Thus, the difference between the projected maximum feasible average fuel economy for Checker of 17.6 mpg and that

actually achieved average fuel economy of 16.5 mpg for the 1979 model year is due to the car-to-car variability in the EPA fuel economy tests and the changes in the EPA test procedures from the 1978 to the 1979 model year.

Since Checker made all the technological improvements found by this agency to be feasible for the 1979 model year, and did not take any steps which would lower its fuel economy below the level projected by NHTSA, the fuel economy level actually achieved by Checker in its 1979 automobiles represents that company's maximum feasible average fuel economy. Accordingly, 16.5 mpg is determined to be Checker's maximum feasible average fuel economy for the 1979 model year.

In determining the fuel economy benefits to be gained from technological improvements projected by the agency for the 1980 model year, the agency has compared Checker's models for which no fuel economy data from EPA is yet available, with comparable vehicles for which 1980 EPA fuel economy test data already exists. This was done by selecting the models produced by General Motors, Checker's supplier of engines, transmissions, and emission control systems, which had the closest inertia weight, N/V, and dynamometer setting for the EPA fuel economy tests to those values for Checker's 1980 models. NHTSA then assumed that the ratio of the fuel economy of the General Motors models to the fuel economy of the Checker models would be related according to the following regression equation.

$$\frac{MPG_{Checker}}{MPG_{GM}} = \left(\frac{\text{Inertia Weight}_{GM}}{\text{Intertia Weight}_{Checker}}\right)^{0.4} \left(\frac{N/V_{GM}}{N/V_{Checker}}\right)^{0.4} \left(\frac{\text{Dyno HP Setting}_{GM}}{\text{Dyno HP Setting}_{Checker}}\right)^{0.18}$$

The methodology used in this rulemaking to determine the fuel economy benefits from projected technology differs in some respects from that typically used in the rulemaking to establish fuel economy standards for the larger manufacturers. When the agency establishes the generally applicable standards for the larger manufacturers, it is rulemaking several years in advance of the model years in question. The agency selects a baseline model year which is generally the most recent model year for which EPA test data exists. Then the agency projects the fuel economy benefits that could be obtained by making projected technological improvements to the baseline vehicles. Projecting the amount of the benefits is necessarily less accurate than actually testing baseline vehicles incorporating those improvements would be. However, since such modified baseline vehicles are not available several years in advance, the agency must rely on its methodology for projecting the benefits. The projected benefits and technological improvements are then incorporated in notices of proposed rulemaking and public comment are invited. For at least some of the projected items of technology, the manufacturers usually submit test data that permit the agency to refine its initial projections of the associated fuel economy benefits. The refined projections are then included in the final rules.

In this particular proceeding, however, NHTSA is not rulemaking in advance of the model years for which it is setting the standards. The vehicles subject to these standards have already been produced and have undergone EPA fuel economy tests, although test results for these particular vehicles have not yet been published by EPA. To determine the fuel economy benefits of the technology actually incorporated onto these vehicles, the agency does not have to use its less accurate projection methodology. Instead, NHTSA can now rely on actual tested EPA fuel economy figures for comparable vehicles to determine the aggregate benefits. NHTSA must, of course, continue to rely on its projection methodology with respect to technology which was feasible, but not included in the manufacturer's automobiles.

For the 1980 year, Checker is using a 229 cubic inch V-6 engine in all of its 6-cylinder models. Chevrolet also uses this engine in its Impala/Caprice models, and the Impala/Caprice has a tested combined fuel economy of 21.2 mpg using this engine. By inserting the respective values for this automobile and the 6-cylinder Checker model in the equation stated above, a fuel economy of 19.9 mpg is projected for the 6-cylinder Checker automobiles. However, the Chevrolet model uses an automatic transmission with a lock-up torque converter, while the Checker does not. This lock-up torque converter offers five percent better fuel economy than conventional automatic tramsmissions. When the projection for Checker's 6-cylinder models is adjusted to reflect this difference, NHTSA's projection of the fuel economy level which these vehicles will actually achieve becomes 18.9 mpg.

On its 8-cylinder models calibrated to comply with the 1980 Federal emission standards, Checker will use a 267 cubic inch V-8 engine. The Chevrolet Impala/Caprice station wagon using this engine showed a combined fuel economy of 18.2 mpg. By entering the appropriate values in the equation and subtracting five percent to account for the absence of a lock-up torque converter on Checker's model, NHTSA has determined that Checker's 8-cylinder Federal models will have a fuel ecomomy level of 16.6 mpg.

Finally, on its 8-cylinder models calibrated to meet the 1980 California emission standards, Checker will use a 305 cubic inch V-8 engine. The Chevrolet Impala/Caprice wagon is certified as complying with the California standards using the 305 cubic inch V-8 engine and without a lock-up torque converter in the transmission and achieving a fuel economy level of 16.6 mpg. By using the regression equation again, NHTSA determined that Checker's 8-cylinder models certified to comply with California's 1980 emission standards will have a fuel economy of 16.0 mpg.

By combining these fuel economy levels with the sales mix projected by Checker for the 1980 model year, NHTSA has determined that Checker's 1980 corporate average fuel economy will be 18.5 mpg.

To determine what Checker's maximum feasible average fuel economy is for the 1980 model year, the agency must consider not only the technological improvements which Checker did make and which resulted in its projected average of 18.5 mpg, but also the possiblity that Checker could have made additional improvements. In its proposed decision on this petition, NHTSA projected that the 1980 Checkers could incorporate a variety of changes from the 1979 Checkers. It was tentatively deemed feasible for Checker's 6-cylinder models to show a seven percent fuel economy improvement, four percent from the use of a small engine and three percent from the use of an automatic transmission

with a lock-up torque converter. Further, NHTSA proposed to determine that it would be possible for Checker's normal wheelbase 8-cylinder models to show a 2.5 percent fuel economy improvement because of changes in the EPA test procedures.

In fact, for the 1980 model year, Checker has made several fuel economy improving changes in addition to those projected as feasible by this agency in the proposed decision. Checker is using smaller engines for both its V-8 models, and Checker used these engines as soon as they became available from General Motors. Checker is using a 3-way catalyst on its 8-cylinder models, which also enables it to improve its fuel economy over the level NHTSA had proposed to determine as its maximum feasible level. Additionally, Checker has effected a mix shift by ceasing production of its 6-cylinder models calibrated to comply with the California emissions standards, and replacing these vehicles with the more fuel-efficent 49-State models.

Checker is, in fact, using the 6-cylinder engine which NHTSA had proposed be found feasible for Checker's use. For reasons beyond its control, Checker did not use the automatic transmission with lock-up torque converter which this agency had projected would be feasible for use by Checker in the 1980 model year.

At the time that NHTSA issued its proposed decision and projected that Checker could use an automatic transmission with a lock-up torque converter for its 1980 models, General Motors had stated that it would provide Checker with these transmissions. However, because of unforeseen technical problems with the transmissions, problems in obtaining emission certification from the EPA, and slowdowns which decreased the number of transmissions which General Motors could produce, that company did not produce enough of those transmissions for its own purposes. In light of this, General Motors decided that it would not be able to sell Checker the improved transmissions, and notified Checker of this decision during the summer of 1979. When Checker was notified of the unavailability of the transmissions, it was too late for Checker to seek an alternate supplier, make the necessary modifications to fit another supplier's transmission into its automobiles, and pass the EPA emission tests for the 1980 model year. Hence, NHTSA hereby determines that the change to the improved automatic transmission which was proposed as feasible for Checker in the 1980 model year was, in fact, not feasible, because of the unavailability of the improved transmission and the late date at which Checker was notified of its unavailbility.

Accordingly, NHTSA determines that the fuel economy level which Checker will achieve for the 1980 model year is Checker's maximum feasible average fuel economy for that model year.

Based on its conclusions that it is not technologically feasible and economically practicable for Checker to improve the fuel economy of its 1979 and 1980 model year automobiles above an average of 16.5 and 18.5 mpg, respectively, that other Federal automobile standards will not affect achievable fuel economy beyond the extent considered in this analysis, and that the national effort to conserve energy will be negligibly affected by the granting of the requested exemptions and establishment of alternative standards, this agency concludes that the maximum feasible average fuel economy for Checker in the 1979 and 1980 model years is 16.5 and 18.5 mpg, respectively. Therefore, the agency is exempting Checker from the generally applicable standards of 19.0 mpg and 20.0 mpg, and is establishing alternative standards of 16.5 mpg for the 1979 model year and 18.5 mpg for the 1980 model year.

In consideration of the foregoing, 49 CFR Part 531 is amended by revising § 531.5(b)(3) to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(3) Checker Motors Corporation

Model year	Average fuel economy standard (miles per gallon)
1978	17.6
1979	16.5
1980	18.5

The agency has reviewed the impacts of this rule and determined that they are minimal. The particular manufacturer is favorably affected by this rule and the national effort at conserving fuel is negligibly affected by the granting of this exemption. This rule will not in any way increase costs for parties affected by it. Based on these factors, the agency determined that this is not a significant regulation within the meaning of Executive Order 12044.

Note: The program official and attorney principally responsible for the development of this final rule are Robert Mercure and Stephen Kratzke, respectively.

(Sec. 9, Pub. L. 89–670, 80 Stat. 981 (15 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. (15 U.S.C. 2002); delegation of authority at 49 CFR § 1.50.)

Issued on February 11, 1980.

Joan Claybrook,

Administrator.

[FR Doc. 80–4809 Filed 2–13–80; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Sport Fishing; Opening of Certain National Wildlife Refuges in Arizona, California and New Mexico

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Arizona, California and New Mexico is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming sport fishing season.

DATES: Effective on date of publication from January 1, 1980 through December 13, 1980.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below: Albert W. Jackson, Area Manager, U.S. Fish and Wildlife Service, 2953 West Indian School Road, Phoenix, AZ 85017. Telephone: 602–241–2487.

SUPPLEMENTARY INFORMATION:

General

Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 33 and the following special regulations. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. No vehicle travel is permitted except on designated maintained roads and trails. Special conditions applying to individual refuges are listed on leaflets available at refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103.

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 such recreational use will not interfere with the primary purpose for which the areas were 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 National Wildlife Refuges were 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.

Fishing shall be in accordance with all applicable Federal and State laws and regulations subject to the following conditions:

§ 33.5 Special regulation; sport fishing for individual wildlife refuge areas.

Arizona and California

Cibola National Wildlife Refuge, Box AP, Blythe, CA 92225. Contact Wesley V. Martin, Refuge Manager at 714–922–4433.

Special condition:

(1) Zone III is closed to fishing and boating from January 1 through March 15, 1980, and from September 6 through December 31, 1980. The use of boats, rafts, or floating devices or fishing from the banks of the lake or Colorado River in Zone III is prohibited during this period. This closure is necessary to protect migratory waterfowl wintering on Cibola Lake from disturbance. Zone III includes Cibola Lake and associated waters and is identified as all refuge lands lying within the area enclosed on the north by the east-west half section line of Sec. 7, T. 2 S., R. 23 W.; the refuge boundary on the east and south; and the center of the Cibola Dry Cut section of the Colorado River on the west.

(2) The use of bow and arrow for taking carp and bullfrogs is permitted in refuge waters open to fishing.

Havasu National Wildlife Refuge, P.O. Box A, Needles, CA 92363. Contact Tyus W. Berry, Refuge Manager at 714–326–3853.

Special Conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1980, except that the closed area, as posted, in Topock Marsh is closed to all entry from January 1 through January 31, 1980, and from October 1 through December 31, 1980.

(2) The use of bow and arrow for taking carp and bullfrogs is permitted in refuge waters open to fishing.

Imperial National Wildfile Refuge, P.O. Box 2217, Martinez Lake, AZ 85364. Contact Gerald E. Duncan, Refuge Manager at 602–783–3400.

Special Conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1980, except for an area of approximately 175 acres in Martinez Lake, as posted, to be closed during the periods from January 1 through March 1, 1980, and from October 1 through December 31, 1980, and an area of approximately 60 acres in Ferguson Lake, California, as posted, to be closed during the same periods.

(2) The use of bow and arrow for taking carp and bullfrogs is permitted in refuge waters open to fishing.

New Mexico

Bitter Lake National Wildlife Refuge, Box 7, Roswell, NM 88201. Contact LeMoyne B. Marlatt, Refuge Manager at 505–622–6755.

Special Conditions:

(1) Sport fishing on the Bitter Lake National Wildlife Refuge, New Mexico, is permitted only on pool Units 5, 6, 7, 15 and 16.

(2) The open season for sport fishing extends from April 1 through October 15, 1980, inclusive.

(3) The use of boats is prohibited.

(4) Fishing hours are from one hour before sunrise until one hour after sunset daily.

Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, NM 87801. Contact Ronald L. Perry, Refuge Manager at 505–835–1828.

Special Conditions:

(1) The open season for sport fishing on all areas on the refuge extend from May 24, 1980 through September 30, 1980, inclusive.

(2) Fishing hours are from one-half hour before sunrise to one-half hour after sunset.

(3) Trotlines and bows and arrows are prohibited.

(4) Seining, dip netting, cast netting and use of traps is prohibited.

(5) The use of boats or other floating devices is prohibited.

(6) Wading is prohibited.

(7) Frogging is prohibited.

(8) Fires are prohibited.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally set forth in Title 50, Code of Federal Regulations, Part 33, The public is invited to offer suggestions and comments at any time.

Note.—The 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.

Richard W. Rigby,

Acting Area Manager, Phoenix, Arizona.

[FR Doc. 80–4786 Filed 2–13–80; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries; Adjustment in Allowable Atlantic Surf Clam Fishing Time

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

ACTION: Notice of adjustment in allowable Atlantic Surf Clam Fishing Time.

SUMMARY: This notice increases the allowable fishing time to 36 hours per week for fishing vessels harvesting Atlantic surf clams within the United States fishery conservation zone (FCZ). The increase in fishing time is intended to allow fishermen harvesting Atlantic surf clams the full quarterly allocation of surf clams for the first quarter of 1980.

EFFECTIVE DATE: February 17, 1980, through March 31, 1980.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, Telephone: (617) 281–3600.

SUPPLEMENTARY INFORMATION: Pursuant to Section 302 of the Fishery Conservation and Management Act of 1976, (Act), a Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) was prepared by the Mid-Atlantic Fishery Management Council (Council). The FMP was approved in accordance with Section 304 of the Act and published on November 25, 1977. Regulations implementing the FMP were published on February 17, 1978. On January 3, 1980, regulations were published (44 FR 203) implementing an amendment to the FMP which, in addition to other measures, establishes a mechanism whereby the Regional Director can adjust surf clam fishing time in response to changes in harvest rates or for other reasons. Section 652.22(a)(5) allows the Regional Director to increase the number of hours

per week during which fishing for surf clams is permitted to facilitate the harvest of the full quarterly allocation if he determines (based on available information and public comment, including current and expected levels of fishing effort) that the quarterly allocation will not be harvested at the then-current level of fishing effort, and that the rate of harvest has not diminished as a result of a decline in abundance of stocks of surf clams.

In evaluating an increase in allowable fishing time, the Regional Director has consulted with members of the surf clam committee and the surf clam advisory sub-panel of the Council together with individuals involved in the surf clam fishery. The Regional Director has determined that the quarterly allocation of surf clams will not be harvested with the current 24 hour fishing week. Further, there is no evidence that the catch rate may have diminished as a result of a decline in the abundance of stocks of surf clams. They have advised him to increase allowable fishing time as required to ensure the harvest of the full quarterly allocation because significant fishing effort has been diverted from the surf clam industry into the harvest of ocean quahogs and bad weather is expected throughout the winter months of this calendar quarter.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this 8th day of February, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-4824 Filed 2-13-80; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Parts 611 and 672

Bering Sea and Aleutian Island Groundfish Fishery; 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 Atka mackerel available to domestic annual harvest (DAH) in accordance with the provisions of the Bering Sea and Aleutian Islands Groundfish Fishery Preliminary Fishery Management Plan (PMP) and the regulations implementing this PMP [See 45 FR 1028, 50 CFR 611.93(b)(3)(iii)(A), and 611.95(b)(3)(ii)(A)]. These regulations apply to vessels of foreign nations fishing for groundfish in the Bering Sea/Aleutian Islands area.

EFFECTIVE DATE: February 12, 1980.

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: Because of uncertainties about specifications of DAH, including the extent to which U.S. vessels delivering to U.S. and foreign processors would harvest groundfish, the PMP established reserves of fish which could be apportioned to DAH or to the total allowable level of foreign fishing (TALFF) if U.S. vessels did not harvest at anticipated levels.

On January 4, 1980, the Secretary of Commerce published approved amendments to the PMP that established initial amounts of TALFF, DAH, reserves, and TALFF. Amounts of DAH were determined by surveys conducted by the National Marine Fisheries Service (NMFS) and by the North Pacific Fishery Management Council (Council). Reserves were established to insure that an adequate supply of fish was available to U.S. vessels wishing to sell U.S.-caught fish to U.S. processors or to foreign processors at sea. These amendments were effective on January 1, 1980.

Implementing regulations established criteria for and the timing of any reserve apportionment, and 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 year. These regulations provide for portions of the reserve amount to be apportioned to DAH, if needed, or added to TALFF as soon as practicable after February 2, April 2, June 2, and August 2, if it is determined that U.S. fishermen will not catch these amounts during the remainder of the fishing year.

This action concerns only the apportionment of Atka mackerel reserves. Initial consultation concerning Atka mackerel reserves was made with the Council through the Council staff. The Regional Director will consult with the Council about the apportionment of the other reserves at the Council's February, 1980 meeting. If, after that consultation, the Regional Director finds it appropriate to apportion any of the other reserves action to do so will be taken; otherwise no futher action will be taken with respect to the February, 1980 reserve apportionment.

Determination of Amount of Reserve Release

In accordance with the requirements of 50 CFR 611.93(b)(3)(iii)(A), and 611.95(b)(3)(ii)(A) the Regional Director has determined that:

1. Twenty-five percent of the Atka mackerel reserves, or 310 metric tons (mt), should be apportioned to DAH and allocated to the specified amount that U.S. fishermen will deliver to foreign processors (JVP).

2. A determination for apportioning the remaining reserves eligible for release on February 2, 1980, will be made following consultation with the Council.

In making this determination, the Regional Director considered the need for the Atka mackerel DAH to be supplemented with reserves. U.S. fishermen have the potential to deliver substantial amounts of Atka mackerel to foreign processors. The current amount available in the JVP component of DAH is 100 mt, which soon could be exceeded. The Regional Director has concluded that twenty-five percent of the Atka mackerel reserve, or 310 mt, will be required immediately to supplement the JVP component of DAH.

Response to Public Comments

Four comments were received during the comment period. They are summarized and responded to below:

Comment 1. The Atka mackerel reserve should be made available immediately to DAH and allocated to JVP.

Response: Twenty-five percent of the eligible Atka Mackerel reserve will be apportioned to DAH and allocated to JVP.

Comment 2. The yellowfin sole, turbot, and other flounder reserves should not be apportioned to TALFF. The yellowfin sole reserve should be apportioned to DAH and allocated to JVP.

Comment 3. The yellowfin sole reserve should not be apportioned to TALFF, because it will be needed by U.S. fishermen.

Comment 4. Eligible reserve amounts of sablefish, Pacific code, turbot, Pacific ocean perch, other rockfish, and other species should be apportioned to TALFF.

Response to Comments 2, 3, and 4: The Regional Director will consult with the Council at its February, 1980 meeting about the need for DAH to be supplemented with additional reserves and the appropriateness of apportioning reserves to TALFF. The Regional Director will, after that consultation,

take the appropriate action concerning apportionment of reserves.

An environmental impact statement was prepared for the PMP for the Bering Sea and Aleutian Islands Groundfish Fishery and is on file with the Environmental Protection Agency (EPA). A negative assessment of environmental impact prepared for the reserve release provisions of this PMP is also on file with the EPA.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

1. Regulations implementing the PMP provide adequate advance notice and invite public comment on this action;
2. No regulatory restrictions are imposed on any person as a result of this action;
3. This action relates to the extension of a benefit; and
4. Immediate implementation is required to achieve full utilization of the fishery resources concerned.

This action is not significant in relation to criteria prescribed by EO 12044, and a regulatory analysis is not required.

Signed at Washington, D.C. this 8th day of February, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. Section 1801 *et seq.*

§ 611.20 [Amended]

In accordance with 50 C.F.R. § 611.93(b)(3), Appendix I—Section 611.20 is amended by changing: the Atka mackerel reserve to 930 mt from 1,240 mt; DAH to 410 mt from 100 mt; and JVP to 410 mt from 100 mt.

[FR Doc. 80-4825 Filed 2-13-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 32
Thursday, February 14, 1980

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1011

[Docket No. AO-251-A22]

Milk in the Tennessee Valley Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rules.

SUMMARY: The hearing is being held at the request of Dairymen, Inc. (DI), a cooperative that represents a large majority of the dairy farmers that supply milk for the market. The key proposals would provide seasonally varying performance standards to qualify supply plants and distributing plants for full regulation under the order. Other proposals would require producers to ship more milk to a pool plant before their milk could be diverted to a nonpool plant, and would provide seasonal adjustments to the order's Class II and Class III milk prices. D.I. claims that these changes are needed to assure availability of milk for fluid uses.

DATE: March 4, 1980.

ADDRESS: Ramada Inn, 7621 Kingston Pike (Interstate Highway 40 West, Exit 380), Knoxville, Tennessee 37919.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Ramada Inn, 7621 Kingston Pike (Interstate Highway 40 West, Exit 380), Knoxville, Tennessee, beginning at 9:00 a.m on March 4, 1980, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Tennessee Valley marketing area.

The hearing is called 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 Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc.—Proposal No. 1

A. Add a new Section 1011.5 Supply Unit to read as follows:

§ 1011.5 Supply unit.

A "supply unit" means all the facilities and equipment in which milk from two or more producers is co-mingled into a single bulk tank truck unit subject to the following conditions:

1. The bulk tank unit shall be designated as a supply unit only if the facilities and equipment in the unit are owned by, under contract to, or otherwise controlled by the operator of the unit;

2. The operator of the unit shall designate the specific producers and farm pick-up haulers assigned to the unit;

3. Both the operator of the unit and the operator of the pool plant request in writing to the market administrator, prior to the beginning of the month, for such designation;

4. The operator of the unit provides, to the satisfaction of the market administrator, assurance of his ability to pay producers; and

5. Milk of designated producers not physically picked up on farm tank truck routes included in the unit shall not be included as producer milk.

B. Revise paragraphs (a) and (b) of Section 1011.7 *Pool Plant* to read as follows:

§ 1011.7 Pool plant.

(a) A plant from which not less than 60 percent for the months of August through November and January and February, or 40 percent for the months of December and March through July of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is physically received at such plant or diverted therefrom pursuant to Section 1011.13 during the month is classified as Class I, subject to either of the following:

(1) A "distributing plant" from which route disposition, except filled milk, in the marketing area is not less than 10 percent of the total quantity of Grade A fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to Section 1011.13; or

(2) A "supply plant" from which the total quantity of fluid milk products, except filled milk, which is shipped from such plant to pool plants pursuant to (a)(1) of this section is not less than 60 percent for the months of August through November and January and February, or 40 percent for the months of December and March through July of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is physically received from dairy farmers (except receipts at such plant by diversion from other order plants) and handlers described in Section 1011.9(c) at such plant or diverted therefrom pursuant to Section 1011.13 during the month. *Provided*, that the operator of such a plant may include milk diverted pursuant to Section 1011.13(c) from such plant to plants described in subparagraph (a)(1) of this section as qualifying shipments in meeting the minimum shipping percentage. *Provided also*, that this requirement may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division either at his own initiative or at the request of interested persons if he finds such revision necessary.

(b) A "supply unit" from which not less than 60 percent for the months of August through November and January and February, or 40 percent for the months of December and March through July of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is physically received through such supply unit is classified as Class I and the total quantity of milk which is physically delivered to pool plants pursuant to (a)(1) of this section is equal to not less than 60 percent for the

months of August through November and January and February or 40 percent for the months of December and March through July of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is physically received through such supply unit. *Provided*, that the physical delivery requirement to pool plants pursuant to (a)(1) of this section may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division either at his own initiative or at the request of interested persons if he finds such revision necessary.

* * * * *

§ 1011.7 [Amended]

C. In Section 1011.7 *Pool Plant*, delete paragraph (c) and renumber paragraphs (d) and (e) to (c) and (d) respectively.

D. Add a new subparagraph (4) to paragraph (a) of Section 1011.42 *Classification of Transfers and Diversions to read as follows:*

§ 1011.7 [Amended]

* * * * *

(a) * * *

(4) Milk transferred or diverted to another pool plant from a pool plant pursuant to Section 1011.7(a)(2) or Section 1011.7(b) shall be classified pro-rata to the respective amounts remaining in each class at the pool plant of the transferee or divertee handler after making the assignments pursuant to Section 1011.44(a)(12) and the corresponding step of Section 1011.44(b).

E. Revise subparagraphs (c)(1) and (c)(2) of Secton 1011.13 *Producer Milk* to read as follows:

§ 1011.13 [Amended]

(c) * * *

(1) A producer's milk may be diverted to another pool plant without a limit in any month, and in any month of March through July, a producer's milk shall not be eligible for diversion to a nonpool plant unless at least two days' production from such producer is physically received at a pool plant described in Section 1011.7(a) or (c) during the month;

(2) In any month of August through February, a producer's milk shall not be eligible for diversion to a nonpool plant unless at least six days' production from such producer is physically received at a pool plant described in Section 1011.7(a) or (c) during the month.

Proposal No. 2

Add a new paragraph (d) and revise paragraphs (b) and (c) of Section 1011.50 *Class Prices* to read as follows:

§ 1011.50 Class prices.

* * * * *

(b) Class II price. Subject to the adjustment as set forth in paragraph (d) of this section of the applicable month, the Class II price shall be the basic formula price for the month plus 10 cents.

(c) Class III price. Subject to the adjustment as set forth in paragraph (d) of this section for the applicable month, the Class III price shall be the basic formula price for the month.

(d) The price adjustment per hundredweight for each month shall be as follows:

Month:	*Amount*
January	+$0.12
February	+.02
March	−.10
April	−.20
May	−.20
June	−.20
July	+.12
August	+.20
September	+.20
October	+.20
November	+.20
December	+.12

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service.— Proposal No. 3

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 11849, Knoxville, Tennessee 37919 or from the Hearing Clerk, Room 1077–S, United State Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Tennessee Valley Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on February 11, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80–4821 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1434

1980 Crop Honey Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture is preparing to make determinations with respect to a price support program for the 1980 crop honey and the regulations to carry out the program. These determinations are to be made pursuant to the Agricultural Act of 1949, as amended. The program will enable producers to obtain price support on 1980 crop honey. Written comments are invited from interested persons.

DATES: Comments must be received on or before April 14, 1980.

ADDRESSES: Mail comments to Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry A. Sullivan (ASCS) (202) 447–7951.

SUPPLEMENTARY INFORMATION:

A. Price Support Program, Color Differentials and Discounts for Quality

Title II of the Agricultural Act of 1949, as amended, authorizes and directs the Secretary to make available through loans, purchases, or other operations, price support to producers of honey at a level which is not in excess of 90 percent nor less than 60 percent of the parity price thereof. Loan and purchases rates will be based on color, class and grade and will reflect market differentials under which honey is merchandised. Section 401(b) of the Act requires that, in determining a price support rate in excess of the minimum level prescribed for honey, consideration must be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired

under a price support program, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

B. Price Support Program Availability Dates

Comments are invited with respect to the loan and purchanse availability dates and to the loan maturity date for 1980 crop honey.

C. Detailed Operating Provisions

Detailed operating provisions necessary to carry out the program for honey will be considered for the 1980 crop. Provisions of this kind may be found in the regulations governing terms and conditions for the current price support program in Part 1434 of Title 7 of the Code of Federal Regulations.

Proposed Rule

The Secretary of Agriculture is considering the following determinations for the 1980 crop honey:

A. Price support rates based on color differentials, class and grade.

B. Price support program availability dates.

C. Detailed operating provisions to carry out the program.

Prior to making these determinations, consideration will be given to any data, views and recommendations. All comments will be made available to the public at the office of the Director, Production Adjustment Division, ASCS, USDA, during regular business hours (8:15 a.m. to 4:45 p.m.). Monday through Friday, in Room 3630 South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20013 (7 CFR 1.27 (b)).

Note.—This proposed rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Harry A. Sullivan, ASCS, (202) 447-7951.

Signed at Washington, D.C. on February 8, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-4819 Filed 2-13-80; 8:45 am]

BILLING CODE 3410-05-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, has under consideration a new section to its regulations pertaining to the loan policies and operations of the banks of the Farm Credit System. The new section will govern the use of supervisory reports which are issued to bank boards of directors to assist the board in discharging its responsibilities.

DATES: Written comments must be received on or before April 14, 1980.

ADDRESSES: Submit any comments or suggestions in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, DC 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Sanford A. Belden, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578 (202-755-2181).

SUPPLEMENTARY INFORMATION: The new section will implement a regulation governing the use of supervisory reports. The reports constitute candid evaluation of a bank's operation and top level management. The reports may contain sensitive information and should be used by a Farm Credit institution confidentially. Disclosure of such information is not a prudent business practice. A supervisory report that is not protected by confidentiality has the danger of being misused and eventually the process will become ineffective. Accordingly, Part 614 is proposed to add a new section 4015 to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

§ 614.4015 Supervisory reports.

Supervisory reports issued by the Farm Credit Administration to the respective bank board of directors are the property of the Farm Credt Administration. They are furnished to the Farm Credit institution for its confidential use. Such reports may be disclosed only with the consent of the Governor of the Farm Credit Administration or his designee.

(Sec. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621).

Donald E. Wilkinson,

Governor.

[FR Doc. 80-4735 Filed 2-13-80; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-80-2]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before: April 14, 1980.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ———, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 8, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Docket No.	Petitioner	Description of the rule requested
Petitions for Rulemaking		
19952	Velcro USA Inc	Petitioner asks that § 31.23 be rewritten to include a rational approach for estimating limit load factors in both the meridional and circumferential directions as a function of rate of climb and gust velocity. Petitioner also requests § 31.25(b) be revised to reduce the factor of safety used in envelope design.
Petitions for Rulemaking: Denied		
None during the period from 2/2/80 through 2/8/80.		

[FR Doc. 80-4675 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Airworthiness Docket No. 67-SW-68]

Airworthiness Directives; Bell Model 47 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would supplement, in part, AD 70-10-8, Amdt. 39-983, as amended by Amdt. 39-1063 and Amdt. 39-2642, by reducing the retirement time from 600 to 300 hours for tail rotor blades, P/N 47-642-102, installed on Bell Model 47 helicopters, and OH-13/TH-13T series helicopters, equipped with Lycoming (Avco) engines. In addition, the proposed AD would require installation of the improved tail rotor blades, P/N 47-642-117, on these same helicopters on or before June 30, 1980. The proposed AD is needed to preclude inflight failure of the tail rotor blades, P/N 47-642-102, with resulting loss of helicopter control. The proposal would also require destruction of the tail rotor blades, P/N 47-642-102, whenever they are removed from the affected helicopters to prevent a return to service on another Model 47 helicopter that would not be affected by the proposed AD.

DATES: Comments must be received on or before March 18, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, Attention: Docket No. 67-SW-68, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Bell service information may be obtained from Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: J. H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 516.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the docket.

Amdt. 39-983 (35 FR 12834), AD 70-10-8, amended by Amdt. 39-1063 and 39-2642 requires, in part, frequent inspection of tail rotor blades, P/N 47-642-102, and removal of the blades on or before attaining 600 hours' total time in service. The AD was issued as a result of inflight failures of the tail rotor blades. Amendment 39-2486 (41 FR 1734) AD 76-01-06, amended by Amdt. 39-2506 and Amdt. 39-2557 would have required removal of tail rotor blades, P/N 47-642-102 and installation of blades, P/N 47-642-117, on certain Bell Model 47 helicopters, but AD 76-01-06 was canceled by Amdt. 39-2557 prior to becoming effective on March 15, 1976.

Since January 1976, 10 additional reports have been received by the agency indicating an inflight failure of tail rotor blade, P/N 47-642-102, on six Model 47G-2, a 47G-2A-1, 47J-2, 47D, and 47G-3 helicopters ranging from 61 to 570 hours' total time in service. These particular helicopters were all equipped with Lycoming (Avco) engines.

As a result of inflight blade failures Bell Helicopter Textron issued Alert Service Bulletins Nos. 47-79-3 and 47-79-4 and OSN 47-79-2 specifying removal of the tail rotor blade, P/N 47-642-102, installation of the improved tail rotor blade, P/N 47-642-117 and also specifying a reduction in retirement time from 600 to 300 hours for blades, P/N 47-642-102, installed on all Model 47 series helicopters regardless of the engine used. It was noted in Service Bulletin No. 47-79-4 that effective January 1, 1981, blade P/N 47-642-102 will not be available from any Bell Helicopter Textron authorized supply outlet. The FAA recently approved the installation of improved blades, P/N 47-642-117, on Bell Model 47G and 47G-2 helicopters. The FAA Southwest Region has not presently approved the installation of the improved blades on the Bell Models 47J, 47K, 47H-1, 47E, 47D-1, 47D, 47B-3, and 47B helicopters.

Bell Helicopter Textron proposes to assist owners of these helicopters to obtain FAA approval of the individual helicopters or to assist owners of Model 47J helicopters to convert these to Model 47J-2 helicopters that are eligible for the improved tail rotor as specified in Service Instruction No. 428. The FAA cannot project the burden on the Model 47 owner/operators or the FAA in this proposed undertaking.

The FAA appreciates Bell's concern about the service history of the tail rotor blades, P/N 47-642-102, and notes that AD 68-2-3 and its successor, AD 70-10-8, instigated the 600-hour life and frequent repetitive inspections of these blades as a result of the service history discussed in the preambles to these rules and the preceding notices.

The service history information of U.S. registered Model 47 helicopters indicates that Franklin (Aircooled Motors) engine powered helicopters (Helicopter Specification H-1) does not warrant a mandatory reduction in the retirement time for blades, P/N 47-642-102, installed on these models and does not warrant mandatory installation of the improved tail rotor blades on these particular Model 47's as specified by Bell in Alert Service Bulletins Nos. 47-79-3 and 47-79-4. Based on the service history, the agency is proposing further mandatory action for all Bell Model 47, H-13, OH-13, and TH-13T series helicopters, except those equipped with Franklin Engine Co. (Aircooled Motors) engines. The agency proposes to issue an AD reducing the P/N 47-642-102

blade retirement time from 600 to 300 hours, requiring destruction of the blades, when removed from service in compliance with the AD and after the blades have attained 300 hours' total time in service and requiring installation of the improved tail rotor blade, P/N 47-642-117, prior to further flight after June 30, 1980, on the affected Bell Model 47, H-13, OH-13, and TH-13T series helicopters. The agency does not propose to amend Amdt. 39-983, as amended by Amdt. 39-1063 and 39-2642, AD 70-10-8, but acknowledges the 300-hour retirement time of blade, P/N 47-642-102, in the proposed AD will supplant or supersede the 600-hour retirement time specified in AD 70-10-8 paragraphs i, j, and k, for all Bell Model 47 series helicopters except those equipped with Franklin (or Aircooled Motors) engines.

FAA engineering approved data for installing the improved tail rotor blades on the Bell Model 47J and 47K and military models is not presently available, therefore, the proposed AD would provide for approving, with Bell's valuable assistance, such anticipated data for these models.

The agency acknowledges that improved blade, P/N 47-642-117, is more durable than blade, P/N 47-642-102, and recommends the installation of the improved blades on Model 47 series helicopters equipped with Franklin (or Aircooled Motors) engines.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Bell: Applies to all Model 47 series helicopters and military Model H-13, OH-13, and TH-13T series helicopters certificated in all categories, that are equipped with tail rotor blades, P/N 47-642-102, except for those helicopters equipped with Franklin (or Aircooled Motors) engines.

Compliance required as indicated.

To prevent possible failure of tail rotor blades, P/N 47-642-102, due to fatigue cracks, accomplish the following:

a. Blades with 250 or more hours' time in service on the effective date of this AD must be removed from service within the next 50 hours' time in service and must be destroyed.

b. Blades with less than 250 hours' time in service on the effective date of this AD must be removed from service prior to or on attaining 300 hours' time in service and must be destroyed on attaining 300 hours' total time in service.

c. Prior to further flight after June 30, 1980, install improved tail rotor blades, P/N 47-642-117, unless already accomplished, in accordance with Bell Helicopter Textron Service Instruction No. 428 (47G-2A, G-2A-1, G-3, G-3B, G-3B-1, G-3B-2, G-4, G-4A, G-5, J-2, and J-2A) or No. 438 (47G and 47G-2), as appropriate, or data approved by the Chief, Engineering and Manufacturing Branch, FAA Southwest Region.

d. The helicopters may be flown in accordance with FAR 21.197 to a base where compliance with this AD can be performed.

e. Equivalent means of compliance with paragraph c. may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(Bell Helicopter Textron OSN 47-79-2, Service Bulletin 47-76-2, Alert Service Bulletins Nos. 47-79-3 and 47-79-4 pertain to this subject).

(Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85).

Note—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Fort Worth, Texas, on January 30, 1980.

C. R. Melvginn, Jr.

Director, Southwest Region.

[FR Doc. 4479 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-NW-2]

Proposed Alteration of Transition Area, Bend, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making. (NPRM)

SUMMARY: This notice proposes to alter the 700' Transition Area at Bend, Oregon, to provide controlled airspace for aircraft executing the new VOR/DME Runway 18 Standard Instrument Approach procedure developed for the Sunriver Airport, Bend, Oregon.

DATES: Comments must be received on or before March 21, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist, Operations, Procedures and Airspace Branch, (ANW-534), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108. All communications received on or before March 21, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available, before and after the closing dates for comments, in the official docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rule Making by submitting a request to the Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, ANW-530, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108 or by calling (206) 767-2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Drafting Information

The principal authors of this document are Robert L. Brown, Air Traffic, Division, and Hays V. Hettinger, Regional Counsel, Northwest Region. This amendment is proposed under authority of Section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

The Proposal

The Federal Aviation Administration (FAA) is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700' Transition Area at Bend, Oregon. This proposal is necessary to provide controlled airspace for aircraft

executing the VOR DME Runway 18 Standard Instrument Approach procedure for Sunriver Airport, Oregon.

Accordingly, the FAA proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 Bend, Oregon

Is amended as follows:

on line 3, insert after ". . . . mile northwest of the VORTAC;" ". . . within a 5-mile radius of the Sunriver Airport (latitude 43°52'30"N, longitude 121° 27'10"W,) and within 2½ miles each side of the Redmond VORTAC 177° radial extending from the 5-mile radius area to 20 miles south of the VORTAC;"

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Seattle, Washington, January 30, 1980.

C. B. Walk, Jr.,

Director.

[FR Doc. 4582 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-NE-7]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter several VOR federal airways in the vicinity of Boston, Mass. This action would reduce controller workload by providing charted routes in areas where aircraft are normally vectored. Also, traffic flow would be improved in the Boston Airport terminal area.

DATES: Comments must be received on or before March 5, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA New England Region, Attention: Chief, Air Traffic Division, Docket No. 80-NE-7, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, FAA New England Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before March 5, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter VOR Federal Airways V-2, V-99, V-106, and V-292, in part, in the Boston, Mass., area. These alterations would permit the traffic flow flexibility necessary to expedite arrival/departure traffic in the Boston terminal area. The alterations would reduce controller work-load by providing charted routes in areas where aircraft are normally vectored, thereby increasing safety. Also, flight plan filing would be facilitated. Subpart C of Part 71 was republished in the **Federal Register** on January 2, 1980, (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under V-2

"Gardner. The airspace within Canada is excluded." is deleted and "Gardner; to Lawrence, Mass. The airspace within Canada is excluded." is added.

Under V-99

V-99 is amended to read as follows: "From Bridgeport, Conn., via Hartford, Conn., INT Hartford 044° and Putnam, Conn., 011° radials; INT Putnam 011° and Gardner, Mass., 097° radials; INT Gardner 097° and Boston, Mass., 015° radials; to Boston."

Under V-106

"Gardner, Mass.; Manchester, N.H.; Kennebunk, Maine." is deleted and "Gardner, Mass.; INT Gardner 041° and Manchester, N.H., 249° radials; Manchester; to Kennebunk, Maine." is substituted therefor.

Under V-292

"INT Putnam 043° and Boston, Mass., 251° radials; Boston." is deleted and "INT Putnam 011° and Gardner, Mass., 097° radials; INT Gardner, Mass., 097° and Boston, Mass., 015° radials; Boston." is substituted therefor.

(Secs. 307(a) and 313(a), Federal aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on February 11, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-4811 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

Docket No. R-80-765]

Proposed Addition of Water Conservation Requirements to HUD Minimum Property Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule adds requirements for flow controls on shower heads and aerators on faucets of lavatories and kitchen sinks to the HUD Minimum Property Standards (MPS) for One- and Two-Family Dwellings 4900.1, MPS for Multifamily Housing 4910.1, and MPS for Care-Type Housing 4920.1. These added requirements are necessary in order to conserve water.

COMMENT DUE DATE: Comments must be received on or before April 14, 1980.

ADDRESS: Comments should be addressed to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Copies of any comments received will be available for examination during business hours at this address.

FOR FURTHER INFORMATION CONTACT: Mr. Mervin Dizenfled, Mechanical Engineer, Minimum Property Standards Division, Office of Architecture and Engineering Standards, department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-6590.

SUPPLEMENTAL INFORMATION: HUD Minimum Property Standards (MPS) are published in handbooks: MPS for One- and Two-Family Dwellings, 4900.1; MPS for Multifamily Dwellings, 4910.1; and MPS for Care-Type Housing, 4920.1. The MPS are incorporated by reference into 24 CFR 200.927. All substantive changes in the MPS are required by 24 CFR 200.933 to be published in the Federal Register using the same procedure as for the publication of regulations. The MPS for which these changes are proposed are available for examination in all HUD Field Offices and in Room 6170 of Headquarters at the above address during business hours.

The proposed changes are in accordance with recommendations of the Presidential Water Policy Initiatives and General Accounting Office Report CED 78-66 titled Municipal and Industrial Water Conservation—The Federal Government Could Do More.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410.

In the proposed changes, new material is italicized. Existing MPS requirements not changed here are to remain unchanged.

The following are proposed technical changes to the MPS for one-and two-family dwellings 4900.1 and MPS for multifamily housing 4910.1.

615-5.2 Fixtures

g. *Shower heads shall have flow controls complying with FS WW-S-1913.*

h. *Faucets at lavatories and kitchen sinks shall have aerators.*

Appendix C

515-5 Plumbing

Shower Head, Ball Joint (Integral Flow Control) . . . FS WW-S-1913.

The following are proposed technical changes to the MPS for care-type housing 4920.1.

615-5.2 Fixtures

b. *Shower heads shall have flow controls complying with FS-WW-1913.*

h. *Faucets at lavatories and kitchen sinks shall have aerators.*

Appendix C

515-5 Plumbing

Shower Head, Ball Joint (Integral Flow Control) . . . FS WW-S-1913

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., January 16, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-4717 Filed 2-13-80; 8:45 am]

BILLING CODE 4210-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Improving Government Regulations; Semiannual Agenda of Significant Regulatory Activity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual Agenda.

SUMMARY: This agenda contains a report on the status of the regulatory actions the Commission announced in its previous agenda as well as an announcement of the significant regulatory actions that EEOC plans to take during the six-month period February 1980–July 31, 1980. The agenda was developed under the guidelines in Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978). The Commission's purpose in publishing the agenda is to allow interested persons an opportunity to participate in all stages of its rulemaking process. The items mentioned in this agenda will be coordinated as appropriate under Executive Order 12067 (43 FR 28967, July 5, 1978). The Commission's first agenda was published in the **Federal Register** on January 31, 1979 (44 FR 6199). Its second agenda was published in the **Federal Register** on July 31, 1979 (44 FR 44890).

FOR FURTHER INFORMATION CONTACT:

Frederick D. Dorsey, Director, Office of Policy Implementation, (202) 634-7060.

Francesta E. Farmer, Director, Office of Interagency Coordination, (202) 653-6490.

Signed at Washington, D.C. this 8th day of January 1980.

For the Commission.

Eleanor Holmes Norton,

Chair.

A. Status of Regulatory Actions Previously Listed

1. Guidelines for the Coordination and Consultation Required by Executive Order (E.O.) 12067

A draft set of coordination and consultation procedures was circulated to affected Federal agencies on December 8, 1978. The comments by the Federal agencies were reconciled by EEOC and a revised draft, with a due date of June 29, 1979, was circulated to the agencies on June 7, 1979. On September 28, 1979, EEOC's Office of Interagency Coordination published in the **Federal Register** (44 FR 55907) for public comment proposed regulations to implement the coordination and consultation obligations set out in Section 1-303 and 1-304 of EO 12067 (44 FR 28967). Comments were received

from three government agencies, the Department of Health, Education and Welfare, the Department of Labor and the Office of Personnel Management, and from the Equal Employment Advisory Council. The Office of Interagency Coordination plans to submit a staff version of the final regulation to EEOC's Commissioners for review and action by early February, 1980. The proposed regulations will then be circulated to the affected Federal agencies together with a fifteen (15) day notice of intent to publish the proposed regulations. This regulation will become the first Order issued under EEOC's 12067 authority. In addition to issuing guidance for coordination and consultation, the Order will also describe the process EEOC will follow in issuing subsequent Orders under E.O. 12067.

2. Government-wide Guidelines for Processing EEO Complaints Received by Title VI or Other Grantmaking Agencies and Programs

EEOC and the Department of Justice (DOJ) staff have met several times to discuss the substance of a regulation, and several drafts of proposed regulations have been prepared. The most recent draft was exchanged on January 4, 1980. Once EEOC and DOJ reach agreement on a draft, it will be circulated to Title VI and other grantmaking agencies for comment. It will then be published for public comment. The final regulation will be jointly issued by EEOC and DOJ as an Order under E.O. 12067 and E.O. 11764. The regulation will become the second Order issued under E.O. 12067.

3. Recordkeeping Regulations

The Commission is continuing its reevaluation of the possible need for a regulatory analysis.

4. Guidelines on Discrimination Because of Religion

The Commission's present *Guidelines* have been reviewed, changes have been drafted; informal consultations with affected Federal agencies, as require by E.O. 12067, have been conducted; and public comments have been sought and received (44 FR 53706). The comments received from the public are presently being reviewed by EEOC staff. The Commission's Office of Policy Implementation (OPI) plans to submit a staff version of final regulations to EEOC's Commissioners for review and action by late July, 1980.

5. Procedures for EEO in the Federal Government

Although the Commission is still reviewing existing Federal EEO regulations, it has issued one interim Federal EEO regulation and developed and circulated two proposed Federal EEO regulations to Federal agencies. The interim regulation (which delegates authority to the Merit Systems Protection Board to process those cases pending before it which were filed before the effective date of the Civil Service Reform Act of 1979 and permits EEOC to treat pre-Civil Service Reform Act cases in a manner consistent with that Act) was issued by EEOC on August 28, 1979 (44 FR 50540). One of the proposed regulations would amend 29 CFR 1613 to provide for the award of attorney fees at the administrative level. The other proposed regulation would amend 29 CFR 1613.234, 1613.235, 1613.631 and 1613.632 to revise Federal EEO appellate procedures for individual and class complaints. These two proposed regulations will appear in the **Federal Register** for public comment once Federal agency comments have been fully considered by EEOC.

6. EEOC Regulations To Enforce Section 504 of the Rehabilitation Act, 29 U.S.C. 794

Proposed regulations were published for public comment on November 29, 1979 in the **Federal Register** (44 FR 68482). These comments are presently being reviewed.

7. Regulations for Processing Title VI Complaints Received by EEOC

Title VI mandates that a procedure be established by each Federal agency to process complaints of discrimination in programs and activities receiving Federal financial assistance. The Commission's Title VI procedures are presently in staff draft form.

8. Guidelines on Discrimination Because of Exposure to Hazardous Substances

The *Guidelines* were approved by the Commission on January 29, 1980, and published in the **Federal Register** for public comment on February 1, 1980. The public has been given 120 days in which to submit comments. The *Guidelines* were the subject of extensive coordination among affected Federal agencies prior to submission to the Commission for approval.

9. Consistent Definitions for Use in Federal EEO programs: Order No. 3 Under Executive Order 12067

EEOC's office of Interagency Coordination (OIC) has compiled a list of key terms and concepts. This list has been submitted to EEOC and the Department of Justice (DOJ). OIC has also begun informal consultation with those agencies that will be affected by the issuance of uniform definitions.

10. Government-wide System of Notification to Federal Agencies of EEO Issuances Under Development

Drafts of notice and reporting documents have been developed. The reporting document will be used to gather information from Federal agencies with external EEO responsibilities on a quarterly basis. The notice document will be used to report the information submitted by agencies and will be distributed on a quarterly basis. EEOC's OIC staff has met with officials of the Department of Health, Education and Welfare, the Department of Justice and the Department of Housing and Urban Development.

11. Equal Pay Act Interpretive Regulations

EEOC is still reviewing the Interpretive Regulations adopted by the Department of Labor (29 CFR Part 800). When this review is completed, EEOC will issue its own interpretations.

12. Age Discrimination in Employment Act Interpretive Regulations

EEOC is continuing its review of the Interpretive Regulations adopted by the Department of Labor (29 CFR 860 et seq.). However, EEOC published proposed Interpretations of Section 1625.1–9 of several terms within the Age Act in the **Federal Register** on November 30, 1979 (44 FR 68858) and final interpretations of Sections 1625.10 and 1625.12, high salaried executives and tenured faculty, in the **Federal Register** on November 21, 1979 (44 FR 66791).

13. Amend 29 CFR 1601.21 (b), (d) and 1601.28, Which Deal With EEOC's Notices of Right-To-Sue and Reconsideration of Determination

The Commission is still reviewing these sections.

14. Amend 29 CFR 1611.1 et seq., the Commission's Privacy Act Regulations

The Commission is still reviewing its present Privacy Act Regulations. The Commission's new Privacy Act Regulations will reflect EEOC's new authority over Federal EEO records.

15. Age Discrimination in Employment Act Recordkeeping Regulations

The Commission has adopted the Department of Labor's Age Discrimination Recordkeeping Regulations (19 CFR 850). These Regulations were published in the

Federal Register on July 7, 1979 (44 FR 38459) and are codified at 29 CFR 1627 *et seq.*

B. New Regulations

1. Regulations for Review of Discrimination Matters Considered in Grievances Negotiated Pursuant to 5 U.S.C. 7121

a. *Need for the Regulations:* Section 701 of the Civil Service Reform Act of 1978, 5 U.S.C. 7122, guarantees the right of a grievant to request review by EEOC of a final decision on any matter involving discrimination that is not otherwise appealable to the Merit Systems Protection Board.

b. *Legal Basis:* Section 701 of the Civil Service Reform Act of 1978, 5 U.S.C. 7122.

c. *Regulatory Analysis:* The economic impact of these regulations has not been finally determined. It appears unlikely, however, that the impact will be great enough to require a regulatory analysis.

d. *Contact Persons:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, (202) 634–6595; and Nestor Cruz, Director, Office of Review and Appeals, (703) 756–6064.

2. Regulations for Processing Complaints of Discrimination Under Section 205 of the Civil Service Reform Act of 1978, 5 U.S.C. 7702

a. *Need for the Regulation:* Section 205 of the Civil Service Reform Act of 1978, 5 U.S.C. 7702, outlines special treatment for charges of discrimination which arise in connection with a personnel action appealable to the Merit Systems Protection Board.

b. *Legal Basis:* Section 205 Civil Service Reform Act of 1978, 5 U.S.C. 7702.

c. *Regulatory Analysis:* The economic impact of these regulations has not been finally determined. It appears unlikely, however, that the impact will be great enough to require a regulatory analysis.

d. *Contact Persons:* Constance L. Dupre, Associated General Counsel, Legal Counsel Division, Office of General Counsel, (202) 634–6595; John Rayburn, Chief, Technical Guidance Division, Office of Field Services, (202) 634–6855; and Nestor Cruz, Director, Office of Review and Appeals. (703) 756–6064.

3. Age Discrimination in Employment Act Exemptions

a. *Need for the Regulation:* The Commission is aware that certain employers have set mandatory hiring and retirement ages for certain occupations whose performance may affect public health and safety. The Commission plans to review the issues involving these polcies in order to provide employers with Commission guidance in this area.

b. *Legal Basis:* Section 9 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 628.

c. *Regulatory Analysis:* The Commission's review will not require a regulatory analysis since it will not have any economic impact on employers.

d. *Contact Persons:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, (202) 634–6595, and Frank McGowan, Field Manager, Office of Field Services, (202) 634–6863.

C. Changes to Existing Regulations

1. Amend 29 CFR 1613.701 Through 1613.710 Which Deal With Procedures for Processing Handicap discrimination Complaints

a. *Need for the Regulation:* Congress has amended the Rehabilitation Act of 1973 to give to persons who believe that they have been discriminated against, in the Federal government, on the basis of handicap, the same rights, remedies, and procedures as are provided under Section 717 of Title VII of the Civil Rights Act of 1964, as amended. Accordingly, the limitations that had previously appeared in the procedural regulations for the processing of complaints of handicap discrimination must be changed.

b. *Legal basis:* 29 U.S.C. 794a, Section 505 of the Rehabilitation Act of 1973, as amended; Reorganization Plan No. 1 of 1978.

c. *Regulatory Analysis:* The Commission has determined that a regulatory analysis is not required.

d. *Contact Persons:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, (202) 634–6595, and John Rayburn, Director, Technical Guidance Division, Office of Field Services, (202) 634–6855.

2. Amend 29 CFR 1613.217, Which Discusses Informal Settlement Attempts, To Authorize Agencies To Provide Backpay as a Part of Informal Settlements

a. *Need for the Regulation:* The present regulations do not clearly state that agencies may provide backpay as a part of an informal settlement attempt before a formal finding of discrimination is made in the complaint process.

b. *Legal Basis:* Section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–16; Section 15(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 633a(b); and Section 505(a)(1) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794(a)(1).

c. *Regulatory Analysis:* The Commission has determined that these regulations do not require a regulatory analysis.

d. *Contact Persons:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, (202) 634–6595; and John Rayburn, Director, Technical Guidance Division, Office of Field Services, (202) 634–6595.

3. Amend 29 CFR 1613.221 (b) and (d) and 1613.233 (a) and (b) Which discuss Notification to Federal Complainants of Appeal Rights and Time Frames for Noting an Appeal to the EEOC and Filing Supporting Briefs

a. *Need for the Regulation:* When EEOC assumed the federal EEO functions of the Civil Service Commission in January 1979 and began processing those discrimination appeals which had been pending before the Appeals & Review Board, it experienced difficulty in determining whether appeals were timely filed. It was also noted that the time frames for appeal were quite short.

Proposed regulations, which were made effective immediately as interim regulations, were published on June 15, 1979, at 44 FR 34494. The Commission is presently considering the comments it received in response to the interim regulations.

b. *Legal Basis:* Section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000–16; Reorganization Plan No. 1 of 1978; Executive Order 12106.

c. *Regulatory Analysis:* The Commission has determined that the regulations do not require a regulatory analysis.

d. *Contact Persons:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, (202) 634–6595; and Nestor Cruz, Director, Office of Review & Appeals (703) 765–6064.

4. Amend 29 CFR 1604, The Commission's Guidelines on Discrimination Because of Sex, so That the Commission can Clarify its Position on the Issue of Sexual Harassment in the Workplace.

a. *Need for the Regulation:* Sexual harassment in the workplace has long been recognized by EEOC as a violation of Section 703 of Title VII of the Civil Rights Act of 1964, as amended. However, cases involving the issue of sexual harassment have been litigated only recently. Since 1976, courts have supported EEOC's position that sexual

harassment in the workplace is sex-based discrimination which violates Title VII and constitutes an unlawful employment practice. The Commission recognizes that the law on sexual harassment is still developing, and it will continue to contribute to that development through the courts. However, the Commission also recognizes the need for input into the further development of the Commission's position by members of the public. The Commission has determined that the publication of this amendment to its *Guidelines on Discrimination Because of Sex* will best serve those ends.

b. *Legal Basis:* Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*

c. *Regulatory Analysis;* The economic impact of this amendment and revision has not been finally determined. It appears unlikely, however, that the impact will be great enough to require a regulatory analysis.

d. *Contact Person:* Merle Morrow, Supervisory Attorney, Office of Policy Implementation (202) 634–7060.

5. Amend the Commission's Regulations on Recognition of State and Local Deferral Authorities (29 CFR 1601.70 and 1601.73).

a. *Need for the Regulation:* The Commission's present Deferral Regulations need to be revised in order to conform with the *en banc* decision in *White* v. *Dallas Independent School District,* 582 F. 2d 556 (5th Cir. 1978).

b. *Legal Basis:* Sections 706(c) and 713(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–5(c) and 12(a).

c. *Regulatory Analysis:* The regulation is not expected to have an economic impact great enough to require a regulatory analysis.

d. *Contact Person:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, (202) 634–6595.

D. Regulations Scheduled for Review

EEOC will continue to review those regulations referred to in Section A of this Agenda. Additional regulatory reviews are not presently contemplated for the time period covered by this Agenda.

[FR Doc. 80–4864 Filed 2–13–80; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 80–17]

Drawbridge Operation Regulations; Clear Creek, Tex.

AGENCY: Coast Guard, DOT

ACTION: Proposed Rule.

SUMMARY: At the request of the cities of Seabrook and Kemah, Texas, the Coast Guard is considering changing the regulation governing the State Highway 146 drawbridge across Clear Creek, Mile 1.0, at Seabrook, Texas, to require that on Saturdays, Sundays, and holidays, from 8 a.m. to 8 p.m., the draw need open only every other 10 minutes if any vessels are waiting to pass. The present regulation for the bridge limits these restrictive openings to the period from Memorial Day through Labor Day. This action should improve bridge vehicular traffic flow, which studies have shown is at about the same level on weekends throughout the year.

DATE: Comments must be received on or before March 18, 1980.

ADDRESS: Comments should be submitted to and are available for examination at the Eighth Coast Guard District, Bridge Administration Branch, Room 1310, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, at address given above (504–589–2965).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written reviews, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped self-addressed postcard or envelope.

Comments received will be fully evaluated before arriving at a final decision on the proposed rule making. Changes may be made to the proposal in light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of the Proposed Regulation

Clear Creek is mainly used by sailboats. The proposed change would extend to the full year the weekend and holiday regulation which is now in effect only for Memorial Day through Labor Day. This should benefit vehicular traffic by controlling draw openings.

Data submitted by the Texas Department of Highways and Public Transportation indicate that:

(1) from June 1978 through July 1979, the monthly number of weekend bridge openings, between 8:00 a.m. and 8:00 p.m., were relatively constant, except for the months of January and February. Stated differently, the span was opened 1,527 times between Memorial Day and Labor Day, an average of 69.4 openings per weekend, and 2,165 times between Labor Day and Memorial Day, excluding January and February, an average of 69.8 openings per weekend.

(2) during calendar year 1979, weekend vehicular traffic counts between 8:00 a.m. and 8:00 p.m., taken during and after the Memorial Day through Labor Day period, showed a relatively uniform peak traffic volume and time of occurrence. Outside the peak volume, comparative traffic volumes were not as uniform. However, the average hourly volume (AHV) remained fairly comparable with a 1,219 AHV within the period and a 1,000 AHV outside the period.

The Coast Guard feels that the data show no significant difference in navigational and vehicular traffic between the Memorial Day through Labor Day period and the balance of the year.

The proposed change would be in effect until the present drawbridge is replaced by a recently permitted high level fixed span bridge, expected to be constructed by mid 1984.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.552 to read as follows:

§ 117.552 Clear Creek, Tex., S–146 bridge.

The draw shall open on signal, except that on Saturdays, Sundays, and holidays, from 8 a.m. to 8 p.m., the draw need open only every other 10 minutes if any vessels are waiting to pass.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C.

1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

P. A. Yost,

Rear Admiral, U.S. Coast Guard, Commander, 8th Coast Guard District.

[FR Doc. 80-4783 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1413-6]

Approval and Promulgation of Implementation Plans; North Carolina: Proposed Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: It is proposed to approve a three-year variance granted by North Carolina on June 14, 1979, to the coal-fired electric generating units of Duke Power and Carolina Power and Light except for the provision concerning excess emissions in periods of startup, shutdown, and verified malfunction. The variance exempts these units from the particulate emission limits specified in North Carolina regulation .0503, Control of Particulates from Fuel Burning Sources. Under the variance, less stringent interim limits are specified for each unit. These interim limits expire June 30, 1982, unless sooner revoked, modified, or extended by the State (with a modification or extension concurred in by EPA for purposes of federal enforcement). If the State does not act by that date to extend or modify the interim limits, the original limits of regulation .0503 will again be in effect for these units. The public is invited to comment on these proposed actions.

DATES: Comments must be received on or before March 17, 1980.

ADDRESSES: Comments should be addressed to Walter Bishop of EPA Region IV's Air Programs Branch (full address given below). Copies of the materials submitted in conjunction with this revision are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, EPA, 401 M St., S.W., Washington, D.C. 20460.

Air Programs Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

North Carolina Division of Environmental Management, Archdale Building, 512 North Salisbury Street, Raleigh, N.C. 27611.

FOR FURTHER INFORMATION CONTACT: Walter Bishop of EPA Region IV's Air Programs Branch (full address above), telephone 404/881-3286 or FTS 257-3286.

SUPPLEMENTAL INFORMATION: Under the original North Carolina implementation plan, the coal-fired power plants of the State's two electric utilities, Duke Power and Carolina Power and Light, are subject to particulate emission limits ranging from 0.10 to 0.14 pounds per million Btu heat imput depending on size (the more stringent limit applies to the larger units). On June 14, 1979, the North Carolina Environmental Management Commission granted the companies a three-year variance from these limits, whch are set forth in regulation .0503 of the State implementation plan, and established interim limits as indicated in the following table.

These interim limits are to be met on a continuous basis.

Facility	Original particulate emission limit (#/M Btu)	Revised (interim) particulate emission limit (#/MM Btu)
Duke Power:		
Allen	0.10	0.25
Belews Creek	0.10	0.25
Buck	0.13	0.23 (Units 3-5,3-6,4) 0.20 (Units 5,6)
Cliffside	0.11	0.23 (Units 1, 2) 0.20 (Units 3, 4) 0.25 (Unit 5)
Dan River	0.14	0.20 (Units 1, 2) 0.25 (Unit 3)
Marshall	0.10	0.25
Riverbend	0.12	0.20
Carolina Power and Light:		
Asheville	0.13	0.25
Cape Fear	0.13	0.25
Lee	0.13	0.25
Roxboro	0.10	0.25 (Unit 3 at 1.6 until 1/1/80)
Sutton	0.11	0.25
Weatherspoon	0.13	0.20 (Units 1, 2) 0.25 (Unit 3)

These interim limits were submitted for EPA's approval as a plan revision on June 18, 1979. Additional information requested by EPA was submitted on September 7, October 31, and December 14, 1979. The materials submitted by the State in support of the revision show that the interim limits will not adversely affect the attainment and maintenance of the national ambient air quality standards nor cause any violations of the applicable prevention of significant deterioration (PSD) increments for particulate matter.

A potential problem is posed for future expansion in the vicinity of several plants since a substantial portion, half or more, of the available PSD increment is consumed on the State's showing by the variance granted to Carolina Power and Light's Asheville plant and to Duke Power's Buck, Cliffside, Dan River, and Marshall Plants. In EPA's view, the State has not, for the five plants (as well as for Cape Fear, Sutton, Weatherspoon, Lee, Cliffside, Riverbend, and Belews Creek), submitted information adequate to justify the baseline use to determine PSD increment consumption: the baseline was set in every case at the allowable limit as of August 7, 1977, despite stack tests close to that date showing lower actual emissions. In case of future industrial expansion in the area impacted by emissions from these plants, the State will not be able to use the higher baseline (for calculating increment consumption) unless more information is provided to justify its use.

In review of the expected air quality impact of the variance, EPA is proposing to approve this revision. This proposal is made in spite of the fact that EPA cannot endorse all of the findings made by the Commission, e.g. ". . . all plants under consideration cannot consistently and continuously comply with the performance standards as set forth in the regulations; this finding is based principally on a recognition of both the technical difficulty and the unreliability inherent in retroactive application of precipitators to existing plants" (North Carolina Environmental Management Commission Variance for Duke Power and Carolina Power and Light, Findings of Fact No. 5). EPA will not inquire into a state's technical findings underlying SIP revisions as long as those revisions meet all requirements set forth in the CAA, regulations and guidance adopted there under.

The interim limits remain in effect until June 30, 1982, unless sooner revised, revoked, or extended by the Commission. If the Commission has not done so by that date, the original emission limits of regulation .0503 will automatically apply once more. In its order, the Commission provided for the situation which could arise if the Commission acted by June 30, 1982, but EPA had not yet had time to take approval/disapproval action on what the Commission had adopted. To preclude any possible misunderstanding, EPA has secured confirmation from the State of the Agency's interpretation of these points, namely, (1) if the Commission has not acted by June 30, 1982, to extend or modify the interim limits, the limits of regulation .0503 will apply as of July 1, 1982; and (2) the correct interpretation of the language of the Commission order assuring the continuing effectiveness of the interim limits between any Commission action prior to June 30, 1982, and before EPA action on the resulting SIP revision, if any (if the Commission simply revokes the interim limits, no action by EPA will be called for), is that "EPA approves" means

"EPA takes final action." This in effect means that for purposes of federal enforcement, a modification or extension of the limitations is not effective unless concurred in by EPA in a final action on a SIP revision embodying the modification or extension. The proposed approval today is based on this understanding.

Since the terms "startup, shutdown, and verified malfunction" are not defined in the State's regulations or in the variance itself, EPA proposes to disapprove the provision in the variance that allows excess emissions during periods of startup, shutdown, and verified malfunctions.

Under the State Order granting the variance, the companies were required to prepare operation and maintenance manuals for their coal-fired plants and submit them for the State's approval. This has been done, and a copy of the manuals has been provided to EPA. However, the Agency does not consider the manuals to be part of the revision since there was no State-held public hearing concerning the pertinent language in the manuals, and is thus proposing no approval/disapproval action on them. See 40 CFR Section 51.4(a)(1978).

The public is invited to participate in this rulemaking by submitting written comments on the North Carolina revision. After weighing all pertinent comments received together with all other information available to him, the Administrator will take final approval/disapproval action.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated February 6, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-4744 Filed 2-13-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1413-4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision: Kern County APCD

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Kern County Air Pollution Control District (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comment on these rules, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted until April 14, 1980.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Kern County Air Pollution Control District, 1700 Flower Street, Bakersfield, CA 93305.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-2938.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on May 23 and October 15, 1979.

Rule 302 "Permit Fee Schedules" (October 15, 1979), Rule 305 "Hearing Board Fees" (May 23, 1979), Rule 407.3 "Scavenger Plants" (May 23, 1979), and Rule 503 "Filing Petitions" (May 23, 1979).

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan revisions. All rules submitted have been evaluated in accordance with EPA Policy and 40 CFR Part 51.

It is the purpose of this notice to propose to approve all the rule revisions listed above and to incorporate them into the California SIP, with the exception of the rule discussed below.

No action is being taken for Rule 407.3 "Scavenger Plants" because the Kern County APCD is proposing to delete this rule which is not currently part of the applicable SIP (the Rule was previously submitted on 7/19/74 and was disapproved in 41 FR 47950).

The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before 60 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore submect to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed the revision being acted upon in this notice and has determined that it is a specialized revision not subject to the procedural requirements of Executive Order 12044.

(Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: January 30, 1980.

Sheila M. Prindivilla,

Acting Regional Administrator.

[FR Doc. 80-4742 Filed 2-13-80; 8:45 am]

BILLING CODE 6560-01

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Provider Reimbursement Review Board

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: These amendments propose a number of changes to the procedures of the Provider Reimbursement Review Board and related matters. Specifically, they would: (1) clarify that Board hearings are open to the public; (2) make HCFA a party to Board hearings; (3) specify procedures and criteria for the Administrator's review of Board decisions; (4) authorize the Administrator to remand cases to the Board; (5) specify that the Administrator may review the Board's conclusion that

it lacks jurisdiction to decide a case; (6) clarify what HCFA policy statements are binding on the Board; (7) authorize publication of formal rulings by the Administrator; (8) permit intermediaries to reopen provider cost report issues not considered by a reviewing authority; (9) expedite judicial review in some cases; and (10) establish the time for seeking judicial review if the Administrator declines to review a Board decision. The purpose of these amendments is to streamline procedures and to resolve a number of problems which have been identified through experience under the current regulations.

DATE: Consideration will be given to written comments or suggestions received by April 14, 1980.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, MD 21235.

If you prefer, you may deliver your comments to: Room 5220, Switzer Bldg., 330 C Street, S.W., in the District; or to Room 789, East High Rise Bldg., 6401 Security Blvd., in Baltimore. In commenting, please refer to MAB–46–P. Comments will be available for public inspection beginning approximately 2 weeks after publication in Room 5220 of the Department's offices at 330 C Street, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (telephone 202–245–0950).

FOR FURTHER INFORMATION, CONTACT: Stanley Katz, Room 190 East High Rise, Baltimore, Maryland 21235, 301–594–9595.

SUPPLEMENTARY INFORMATION:

Background

Under the Medicare program, the amount paid to a provider of services is the reasonable cost of items and services furnished to beneficiaries. To be reimbursed for covered services, providers must file cost reports with their fiscal intermediaries. These cost reports are used by fiscal intermediaries to determine the amount of reimbursement. If a provider is dissatisfied with the amount of reimbursement (or if the intermediary does not make its determination within 12 months after receiving a cost report) the provider has the right to request a hearing before one or more hearing officers designated by the intermediary, or before the Provider Reimbursement Review Board, depending on the amount in controversy. (See Section 1878 of the Social Security Act, 42 U.S.C. 1395oo.)

The statute authorizes the Secretary to reverse, affirm, or modify a decision of the Board. (See Section 1878(f) of the Act, 42 U.S.C. 1395oo(f).) This authority was delegated to the Commissioner of the Social Security Administration when he had administrative responsibility for the Medicare program. For the last two years, it has been delegated to the Administrator of the Health Care Financing Administration (HCFA). If a provider is dissatisfied with the Board's decision or any decision of the Administrator affirming, reversing, or modifying the Board's decision, the provider may request review of the final agency decision by a U.S. district court. A determination or decision made at any level in this process is "final" unless it is appealed within specified time limits. (See 42 CFR 405.1811(a), 405.1841, 405.1877.) A final determination or decision may not be reopened more than 3 years after the decision, unless the decision was obtained through misconduct. (See 42 CFR 405.1885.)

The Provider Reimbursement Review Board was established by Section 1878 of the Act. 42 U.S.C. 1395oo. Regulations implementing that provision and prescribing procedures for determinations and decisions, and related matters, are published at 42 CFR 405.1801–405.1889. "Interim Procedures" governing Secretarial review of Board decisions were published on September 6, 1977 (42 CFR 44599), but have not been codified.

Since it began operation in December 1974, the Board has decided over 300 cases and it has a current docket of approximately 500 cases awaiting disposition. The Board decides a majority of cases against the providers.

Except for the first few cases decided by the Board in 1975, all of the Board decisions have been reviewed by Department staff in order to recommend whether the Secretary's authority to reverse, affirm, or modify should be exercised. This review is presently conducted by the Office of the Attorney Advisor.

The Commissioner of Social Security and the Administrator have declined to review the Board's decision in about 65 percent of the cases. They have affirmed about 11 percent and have reversed or modified about 24 percent. However, with one exception, all of the reversals and modifications have been cases in which the Board found for the provider. Moreover, providers are seeking judicial review in a growing number of cases in which the Board found against the provider, or the Administrator or Commissioner reversed a Board decision in favor of the provider. At present, there are approximately 100 cases pending in the Federal district courts.

Against this background, we are reviewing ways in which the total process for HCFA adjudications can be made more effective and more efficient. This notice sets forth some regulatory proposals designed to improve this process, particularly with respect to the Administrator's review. Following a discussion of these proposals, the preamble also discusses some administrative measures we plan to take.

Regulatory Proposals

1. Public Hearings

Current regulations provide that a hearing by an intermediary or by the Board shall by open to the parties and to representatives of HCFA. (See 42 CFR 405.1819 and 405.1851.) In addition, the latter regulation provides that Board hearings shall also be open to such other persons as the Board deems necessary and proper. These provisions do not clearly state that the general public can attend these hearings, although it is not the Department's policy to exclude the public.

We believe that opening governmental adjudications to the public generally has a salutary effect, and we wish to encourage greater public awareness and understanding of the Medicare policies and decision-making process.

We are therefore proposing to amend sections 405.1819 and 405.1851 to provide that hearings before an intermediary or the Board shall be open to the public.

Opening the Board's hearings to the public, however, does raise a concern over the disclosure of information, through testimony or documentary evidence, that members of the public would not be authorized to obtain otherwise. One example would be financial information about a provider's business operations, which is furnished by the provider in support of its cost report but is not included as a part of such report. (The cost report itself is available to the public on request.)

In order to avoid unwarranted disclosure of such information while providing maximum public access to provider reimbursement hearing we are proposing that the Board be granted authority to exclude members of the public from portions of the proceedings, upon the motion of a party. Under this proposal, the Board would be able to close only those portions of hearings in which information would be disclosed that might not otherwise be available under the Freedom of Information Act. It is expected that even such limited closures would be extremely rare. First,

it is the unusual case in which protected information (that providers would not want disclosed to the public) is submitted in connection with the PRRB hearing. Second, disclosure of protected information can ordinarily be avoided by agreement between the parties to remove identifying details or to enter into stipulations setting forth conclusions that do not reveal protected information.

We believe it is more important that a provider whose property interests are at stake be given the opportunity to submit information without fear of injury to its business interest or to its employees than to give members of the public unimpeded access to all hearings details. Appropriate public access is assured, in any event, through the Freedom of Information request and appeals process. A person excluded from a hearing could request a copy of the record under the Freedom of Information Act and a denial would be subject to administrative and judicial appeal. Moreover, anyone interested in attending Board hearings can obtain information about the Board's docket and hearing dates by writing directly to the Board.

2. HCFA as a Party

Current regulations provide that only the provider and the intermediary are parties to a hearing before the Board. (See 42 CFR 405.1843.) They provide that neither the Secretary nor HCFA may be made a party to the hearing (except when HCFA directly performs the functions usually performed by a fiscal intermediary). This provision was intended to simplify procedures and to strengthen the role of the fiscal intermediaries in dealing with providers. In practice, however, providers have objected to HCFA's absence from proceedings with which HCFA is very much concerned. In particular, providers have objected that HCFA may designate an expert witness ("consultant") for the Board (section 405.1843(b)), and that HCFA has a right to receive all papers filed with the Board (section 405.1861), to be notified promptly when a party puts an administrative policy in issue (section 405.1863), and to urge the Administrator to review a decision of the Board (see the "Interim Procedures" published on September 6, 1977, 42 FR 44599). While these are proper activities for a party, it has sometimes been difficult to explain why an entity which is not a party is permitted to be so actively involved in the proceedings. Providers have complained that this appears to be unfair.

In our view, HCFA is the real party in interest in these hearings and this should be reflected in proceedings before the Board. (Also see 42 CFR 405.651(c).) Therefore, we propose to amend the regulations to substitute the Bureau of Program Policy, HCFA, for the intermediary as the party in Board hearings. Intermediaries may still participate in the hearings as part of HCFA's representation. An intermediary's auditor and other personnel may appear as witnesses on behalf of the government, as necessary. The Bureau of Program Policy may also request the intermediary to represent HCFA before the Board in certain cases, particularly during the initial period following the promulgation of a final rule. We would expect to define certain categories of cases in which intermediary representation was requested. Examples might be cases that are not precedent-setting, cases in which the principles have been well-established, or cases in which the intermediary has a unique expertise.

In view of this proposal, we are also proposing to revoke section 405.1863 (requiring notice to HCFA in certain circumstances), and to make conforming changes to sections 405.1861 and 405.1875, described above. We are also deleting the provisions of section 405.1843(b) specifically authorizing the Board to call HEW employees as witnesses. In lieu of that provision, we are adding a general provision in section 405.1851 authorizing the Board to call any witness whose testimony is relevant and material to the issues before the Board.

3. Procedures for Administrator's Review

Section 1878(f)(1) of the Act provides in part that:

> Any decision of the Board shall be final unless the Secretary, on his own motion, and within 60 days after the provider of services is notified of the Board's decision, reverses, affirms, or modifies the Board's decision.

This provision is implemented in our current regulations in sections 405.1875, but they lack adequate detail. HCFA published interim procedures (42 FR 44599, September 6, 1977) which supplied some of the detailed procedures needed by parties to Board hearings. This proposed rule, if finalized, would supersede those interim procedures.

We are amending § 405.1875 to incorporate some of these interim procedures, revised in the light of experience and with the simplification permitted by making HCFA a party. The amendments would make it clear that any party to the Board hearing may request the Administrator to review a decision of the Board, but it must do so in writing within 15 days of receipt of the Board decision. The Administrator could still decide to review a Board decision without having been asked to do so by any of the parties. However, we expect this to occur much less frequently than in the past. Moreover, the Administrator will not agree to review a Board decision merely because a party has requested it.

The Administrator would normally review a Board decision only if it appeared that (1) the Board had made an error of law; (2) the Board's decision was not supported by substantial evidence; or (3) the case involved a significant, unresolved policy issue and the Administrator's review would likely lead to a formal ruling or the initiation of a proposed regulation. Our intent is to focus the Administrator's review on a much smaller percentage of the Board's decisions by creating a significant threshold against review and having the parties make a showing the review is warranted.

The Administrator would not review a case in order to re-examine or overturn the Board's findings of fact (unless they were not supported by substantial evidence) nor would he or she review a case in order to consider evidence not presented to the Board. If it appeared there were factual issues to be resolved, the Administrator would remand the case to the Board, as discussed below.

If the Administrator decided to review a case, whether or not a party has requested review, he or she would notify the parties in writing, and would identify the issues under consideration. The parties could respond in writing within 15 days of receipt of that notice. Although these time limits are short, they are necessary because the Administrator has only 60 days to complete his or her review. In view of the 60-day time limit, we believe the 15-day response times are reasonable.

The Administrator would also notify the parties as promptly as possible if he or she has decided not to review a Board decision.

The written submissions which the parties may make when the Administrator has decided to review a decision would be limited to proposed findings and conclusions, exceptions to the Board's decision and supporting reasons, and rebuttals of the other party's submissions. Factual arguments would be confined to the certified record of the Board hearing. (If a party were recommending the matter be remanded to the Board, the written submissions could also state the reasons for doing so. This might include material not in the Board's record.) This limitation is

consistent with the Administrative Procedure Act, 5 U.S.C. 557(c), and is particularly appropriate in view of the short time available to the Administrator for review. In our view, evidence should be presented and issues should be developed before the Board, where they can be tested in adversary proceedings and where there is adquate time to consider matters fully. If the matter is being reviewed by the Administrator, the Board would certify the record of the Board hearing and the Administrator's decision would be grounded solely on that record. If additional evidence or new issues need to be considered, we believe the case should be remanded. The Administrator's review must not be used to retry the case.

Section 2 of the interim procedures prohibited *ex parte* communications during the review of a Board decision. We propose to include a similar prohibition in § 405.1875. All communications with the Office of the Administrator or the Office of the Attorney Advisor, by the parties or their representatives, about a Board decision being reviewed by the Administrator must be in writing and must be served on the parties. Since the Administrator's decision must be issued within 60 days of the Board's decision, he or she will normally not consider communications received during the last few days of the review period, except for communications showing that a remand to the Board is warranted. Any communications not in writing or not served on the parties would not be considered.

4. Remands to the Board by the Administrator

As noted above, section 1878(f)(1) of the Social Security Act authorizes the Secretary to reverse, affirm, or modify a decision of the Board provided he does so within 60 days. The current regulations do not explicitly authorize the Administrator to remand a case to the Board. However, the U.S. District Court for the District of Columbia concluded that the Secretary's authority inherently includes remanding a case to the Board for further action consistent with the statute and regulations. *Gulf Coast Home Health Services, Inc.* v. *Califano*, U.S.D.C., District of Columbia (Sirica, J.), No. 77–1507 (October 10, 1978); CCH Medicare-Medicaid Guide ¶ 29,250. We are adopting the court's position. A decision by the Administrator to remand a case to the Board would have to be made within 60 days, after the provider was notified of the Board's decision. The Administrator's remand would vacate the Board's decision. After remand, the Board would render a new decision which would be final unless the Administrator exercised his or her review authority within 60 days after the provider of services is notified of the Board's decision after remand. In our view, a remand by the Administrator is not a final decision of the agency and, therefore, is not subject to judicial review. We also believe the Administrator has the same right to review a decision of the Board after remand as an original Board decision.

5. Review of Board's Decision About Its Jurisdiction

Under current regulations at 42 CFR 405.1873, the Board decides all questions relating to its jurisdiction to hear or decide a case. When the Board decides that it has no jurisdiction, the statute and regulations are unclear whether the Administrator and the courts may review the case, since there is no final decision of the Board made after a hearing.

In *Cleveland Memorial Hospital* v. *Califano*, 444 F.Supp. 125(E.D.N.C., 1978), the court held that a decision by the Board denying jurisdiction is a "final decision," reviewable by the court. The court reasoned:

> Otherwise, the PRRB could effectively preclude any judicial review of its decisions simply by denying jurisdiction of those claims which it deems to be non-meritorious.

We think the court's conclusion is equally applicable to the question whether the Administrator has authority to review the Board's dismissal for lack of jurisdiction. If a court overturned a Board dismissal, it would normally remand the case to the Board for a hearing, rather than decide the merits of the case. We believe that having the Administrator review the Board's dismissal, and remanding the case to the Board if he concludes it does have jurisdiction, will expedite the adjudication of the provider's claim. The Administrator would have to rule within 60 days, which will almost always be faster than a court would rule.

We are therefore amending section 405.1873 to make clear that a decision of the Board that it lacks jurisdiction to decide a case is a "final decision" which is subject to review by the Administrator and the courts under section 1978 of the Act.

6. HCFA Policies Binding the Board

Current regulations at 42 CFR 405.1867 provide that the Board must comply with the statutes, regulations, and formal rulings. These regulations also provide that the Board shall give great weight to interpretive rules, general statements of policy, and rules of agency organization, procedure or practice established by HCFA. These regulations are not clear, however, on how the Board is to treat documents published in the **Federal Register** which are not codified in the Code of Federal Regulations, but which are specifically authorized by codified regulations and are designed to implement codified regulations.

A prime example of such a document would be the so-called "223 limits". Our regulations, at 42 CFR 405.460, "Limitations on reimbursable cost," provide for the publication in the **Federal Register** from time to time of "cost limits" applicable to determining the "reasonable cost" of a provider of services. These cost limits are authorized by section 1861(v)(1)(A) of the Act, as amended by section 223 of the Social Security Amendments of 1972 (Pub. L. 92–603). For this reason, they are frequently referred to as "223 limits". The actual limits are periodically published in the **Federal Register** in proposed form with a public comment period, and are then republished in final form after public comments have been taken into account. Because the "cost limits" are revised periodically, they are not published as amendments to the permanent Code of Federal Regulations. Rather, they appear in the "Notices" section of the **Federal Register.**

Other examples of regulations which are implemented through the periodic issuance of notices in **Federal Register** are 42 CFR 405.432, "Reasonable cost of physical and other therapy services furnished under arrangements," and 42 CFR 405.433, "Determining allowable cost for drugs."

We believe these notices have the same stature and weight as codified regulations. They have been subject to the same development process as regulations. However, some people argue that these are not the same as regulations and, therefore, are not covered by the present wording of section 405.1867. In order to resolve this issue, we are proposing to amend 42 CFR 405.1867 to specify that notices of HCFA policy specifically authorized by regulations and published in the **Federal Register** are binding on the Board.

7. Administrator's Formal Rulings

The Social Security Administration for several years has had a system for issuing formal rulings. (See 20 CFR 422.408.) This system encompassed the Medicare program while it was part of SSA. HCFA has adopted that system and, in November, 1978, published its

first set of rulings, explicitly adopting those previously issued by SSA.

We believe this is a very effective way of clarifying policy issues. While formal rulings cannot substitute for promulgating regulations through public rulemaking—and that is not our intent—they can be helpful in expeditiously clarifying issues that arise in the implementation of properly issued regulations. This is particularly true with respect to the rather narrow, technically complex reimbursement issues that make up much of the Board's work. When used in this context, rulings can promote more uniform application of our regulations in areas of potential confusion. They are statements of policy to which HCFA becomes bound and upon which those who are subject to our regulations can rely.

As noted above, our regulations, at 42 CFR 405.1867, currently provide that the Board is bound by formal rulings. We believe that HCFA, the Board, Medicare providers, and the public should pay greater attention to this process. Consequently, we are proposing a new section explicitly stating HCFA's intention to issue formal rulings and to publish periodically an index and compilation of these rulings.

Formal rulings will typically follow from an Administrator's decision after reviewing a Board decision. However, there may be other events or decisions which warrant the issuance of a ruling, such as a Board decision itself, an important judicial opinion, a determination by an intermediary, or a legal opinion of widespread interest.

Not all Administration's decisions will be formal rulings. Only those which have significant value as a precedent or deal with recurring issues will be so designated. Our proposed regulation makes it clear that the Administrator's failure to review a Board decision does not carry any precedent. (In this regard, note the discussion earlier in this preamble regarding our plans to reduce the volume of issues undergoing Administrator's review.) The same is true for a decision in a matter which the administrator concluded was not of significance beyond the particular case in hand and which he did not designate as a formal ruling.

8. Reopening Certain Issues

Current regulations at 42 CFR 405.1885(c) specify that only the last authority to decide the amount of a provider's program reimbursement may reopen that determination or decision. Paragraph (a) of that regulation refers to reopening "with respect to findings on matters at issue in such determination or decision." The question has been raised about whether this language permits intermediaries to reopen provider cost reports which the Board had already reviewed, in order to examine issues which the Board did not explicitly consider.

Under one interpretation, if a matter is not placed in issue by the parties, or if the Board does not rule on it, there were no "findings on matters at issue in such determination or decision," and the intermediary is not precluded from reopening the Board decision to consider "new" issues. However, under another interpretation, the Board adjudicates cost reports, not just discrete issues, and all issues are necessarily subsumed in the Board's decision on the cost report, whether they are dealt with explicitly or not. Under this view, errors may be corrected only if the Board reopens the decision, even though the Board may not have previously considered the precise matter in question.

The same question applies to whether an intermediary may reopen a decision of its intermediary hearing officer or panel (see 42 CFR 405.1809–405.1833), or more generally, whether any decision-making authority may reopen a determination or decision that had been issued by a reviewing authority, in order to consider new issues.

We are proposing to clarify this issue by explicitly adopting the first interpretation. The proposed change would provide that an intermediary may reopen a cost report, even if it has been the subject of a decision of an intermediary's hearing officer or panel, the Board, or the Administrator, in order to consider issues not previously decided by them, and to issue a revised determination. (We have written the proposed rule in general terms, so that it authorizes any of these decision-making authorities to reopen. However, we would expect a reopening normally to be done by the intermediary, rather than a reviewing authority.)

The provider could appeal any revised determination under the usual rules. In addition, 42 CFR 405.1887 would be amended to give the parties to a determination or decision which is being reopened an opportunity to furnish additional evidence or written argument. It would also make clear that the existing 3-year limit on reopening is satisfied either by the party submitting a written request, or by the authority issuing a notice of reopening, within that period. (A notice of any revised determination or decision made after reopening does not necessarily have to be issued before the 3-year limit). In order to avoid provider requested reopenings for which there is little prospect for relief being granted, we would require that a request be accompanied by sufficient documentation to show that there is a substantial issue and that reopening is warranted.

9. Expediting Judicial Review

There may be some cases in which a Board hearing would not resolve the matter at issue, because there is no factual dispute and because the legal issues would clearly be decided against the provider, since the Board is bound by applicable statutes, regulations and HCFA rulings. The provider may, however, wish to challenge HCFA's legal position in court. We are proposing a means of expediting such a case, by avoiding the unnecessary Board hearing.

The means we are proposing is a stipulation between the parties setting forth their agreement: (1) as to the controlling facts in the case; (2) that there are no factual issues for the Board to resolve; (3) as to the applicable statutes, regulations and HCFA rulings; and (4) that there are no legal issues within the authority of this Board to decide. Thus, the stipulation will make it clear that the only issue to be resolved is the provider's challenge to the validity of the governing HCFA policy.

Under the terms of section 1878(f) of the Social Security Act, the provider must receive a decision from the Board in order to obtain judicial review. In order to avoid any question whether the provider has a right to judicial review, we would require that the stipulation be submitted to the Board. The Board would have discretion to accept or reject the stipulation. If the stipulation were accepted, the provider could avoid the delay and futility of a Board hearing and immediately seek to challenge the HCFA policy in court.

10. Timing of Judicial Review After Administrator Declines Review

As noted above, section 1878(f) of the Act gives the Secretary 60 days after the provider is notified of a Board decision in which to affirm, modify or reverse that decision. The same section of the Act, however, also gives the provider just 60 days after being notified of the Board decision, or 60 days after being notified of the Board decision, or 60 days after receiving the Secretary's affirmance, modification or reversal, in which to seek judicial review. There is a good deal of concern and confusion because the Secretary's 60 days to act runs concurrently with the provider's 60 days to seek judicial review if the Secretary does not act. If the Administrator (acting for the Secretary) did not act promptly in deciding not to

review a Board decision, the provider could have some anxiety over having to choose between filing a lawsuit which may turn out to be unnecessary or taking the risk that it will lose its right to judicial review. Although we expect to avoid this situation by notifying the provider promptly when the Administrtor has declined review, we believe it is desirable and permissible to resolve this matter by regulation. Consequently, we are proposing to amend section 405.1877 to make it clear that, under our view of the statute, the provider has 60 days in which to seek judicial review from the date it receives notification that the Administrator has declined review. In the event the Administrator does not notify the provider that he or she has declined review, the provider would, in our view, have 60 days from the date the Administrator's time for taking action expired.

Administrative Measures

In addition to the regulatory proposals discussed above, we are reviewing additional administrative measures designed to improve the HCFA adjudicative process. Thus we plan to make more resources available to the Board to develop stronger case management. While we intend to leave the development of new, and possibly more expeditious, procedures in the hands of the Board, and to preserve the independence of the Board in this respect, we believe the Board might find it useful to call upon some of the analytical resources of HCFA in reviewing its current case management and in evaluating alternatives.

If our proposal to make the Bureau of Program Policy, HCFA, a party to the Board hearings is finalized, we also intend to pursue ways of expediting the disposition of cases and avoiding unnecessary hearings. We will try to fully utilize such measures as stipulations, pre-hearing conferences, pre-hearing discovery, and holding in abeyance repetitious hearings on identical issues.

42 CFR Part 405 is amended as follows:

1. In Section 405.1801, paragraph (a)(5) is amended, and new paragraphs (a)(6), (a)(7), and (a)(8) are added, to read as follows:

§ 405.1801 Introduction.

(a) *Definitions.* As used in this subpart:

* * * * *

(5) "Administrator's review" means that review provided for in section 1878(f) of the Act and § 405.1875.

(6) "Administrator" means the Administrator of HCFA or his or her designee.

(7) "HCFA" means the Health Care Financing Administration in the Department of Health, Education, and Welfare.

(8) "Act" means the Social Security Act.

* * * * *

2. Section 405.1819 is amended to read as follows:

§ 405.1819 Conduct of intermediary hearing.

(a) The hearing shall be open to the public. However, at the request of the provider, the intermediary may close a hearing to the extent that public attendance would result in a disclosure of information that would not be available to the public under the mandatory disclosure provisions of the Freedom of Information Act (5 U.S.C. 552) and under HEW's Public Information Regulation (see 45 CFR Part 5).

(b) The hearing officer shall:

(1) Inquire fully into all of the matters at issue;

(2) Receive into evidence the testimony and any documents that are relevant and material to those matters; and

3. In § 405.1843 the coding of paragraph (a) is deleted and its content is revised and set forth as the section; paragraph (b) is deleted and its content is revised and redesignated as § 405.1851(c).

§ 405.1843 Parties to Board hearing.

The parties to the Board hearing shall be the provider; the Bureau of Program Policy in HCFA, and any other entity determined by the intermediary in the determination being appealed to be a related organization of such provider.

Officers, employees, or representatives of the intermediary may participate in the Board hearings at the request of HCFA.

4. Section 405.1851 is revised to read as follows:

§ 405.1851 Conduct of Board hearing.

(a) The Board hearing shall be open to the public. However, at the request of either party, the Board may close a hearing to the extent that public attendance would result in a disclosure of information that would not be available to the public under the mandatory disclosure provisions of the Freedom of Information Act (5 U.S.C. 552) and under HEW's Public Information Regulation (see 45 CFR Part 5).

(b) The Board shall:

(1) Inquire fully into all of the matters at issue;

(2) Receive into evidence the testimony of all witnesses, and any documents, that are relevant and material to those matters; and

(3) Determine the order in which the evidence and the allegations shall be presented and the manner of conducting the hearings.

(c) The Board may call as a witness any person including any employee or officer of HEW or HCFA, whose testimony is relevant and material. The Board may call as a consultant any individual designated by the Secretary for such purpose.

5. Section 405.1853 is amended by adding a new paragraph (d), to read as follows:

§ 405.1853 Prehearing discovery and other proceedings prior to the Board hearing.

* * * * *

(d) The parties may stipulate as to the controlling facts and the applicable statutes, regulations and HCFA rulings and that a Board hearing is unnecessary because there are no factual issues to be resolved by the Board and no legal issues within the authority of the Board to decide. If the Board accepts the stipulation, it becomes a final Board decision for purposes of judicial review under section 405.1877.

6. Section 405.1861 is revised to read as follows:

§ 405.1861 Oral argument and written allegations.

The Board shall allow each party a reasonable time for the presentation of oral argument or for filing briefs or other written statements concerning the law and the facts of the case. A party shall file any brief or other written statement in sufficient number that it may be made available to each other party.

§ 405.1863 [Revoked]

7. Section 405.1863 is revoked.

8. Section 405.1867 is revised to read as follows:

§ 405.1867 Sources of Board's authority.

The Board must comply with the provisions of title XVIII of the Act, other applicable statutes, implementing regulations (including notices specifically authorized by regulations and published in the **Federal Register**) and formal rulings issued under the authority of the Commissioner of Social Security or the administrator of HCFA. The Board shall afford great weight to interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice established by HCFA.

9. Section 405.1873 is amended by redesignating paragraph (b) as paragraph (c), and by adding a new paragraph (b) to read as follows:

§ 405.1873 Board's jurisdiction.

* * * * *

(b) A decision of the Board that it lacks jurisdiction to consider a matter shall be treated as a final decision of the Board. The Board shall issue written notice of such a decision to the parties in accordance with § 405.1871. Such a decision may be reviewed by the Administrator under § 405.1875, and by the courts (see § 405.1877).

* * * * *

10. Section 405.1875 is revised to read as follows:

§ 405.1875 Administrator's review.

(a) *General rule.* The Administrator, at his or her discretion, may review any decision of the Board, including a decision under § 405.1873 about the Board's jurisdiction to grant a hearing. The Administrator may exercise this discretion on his or her own motion or in response to a request from a party to a Board hearing.

(b) *Request for review.* A party requesting the Administrator to review a Board decision must file a written request with the Administrator within 15 days of the receipt of the Board decision.

(c) *Criteria for deciding whether to review.* In deciding whether to review a Board decision, the Administrator will consider whether it appears that:

(1) The Board made an error of law;

(2) The Board's decision is not supported by substantial evidence; or

(3) The case involves a significant, unresolved policy issue and his or her review is likely to lead to a formal ruling or a proposed regulation.

(d) *Decision to review.* Whether or not a party has requested review, the Administrator will promptly notify the parties whether he has decided to review a decision of the Board and, if so, will indicate the particular issues he or she will consider.

(e) *Written submissions.*

(1) Within 15 days of receipt of a notice that the Administrator has decided to review a Board decision, a party may submit to the Administrator, in writing:

(i) Proposed findings and conclusions;

(ii) Exceptions to the Board decision;

(iii) Supporting reasons for the exceptions and proposed findings; and

(iv) A rebuttal of the other party's request for review or other submissions already filed with the Administrator.

(2) These submissions shall be confined to the record of the Board hearing.

(3) A party may also request that the decision be remanded and state reasons for doing so.

(4) A party which makes a written submission under this paragraph shall promptly send a copy to each other party to the Board hearing.

(f) *Ex parte communications prohibited.* All communications from any of the parties or their representatives about a Board decision being reviewed by the Administrator must be in writing and must be served on the parties. The Administrator will not consider any communication that does not meet these requirements or is not submitted within required time limits.

(g) *Administrator's decision.* If the Administrator has notified the parties that he or she has decided to review a board decision, he or she will affirm, reverse, modify or remand it or decide that such a review is not warranted. He or she will notify the parties of his or her action within 60 days after the provider received notification of the Board decision. Any decision other than remand will be confined to the record of the Board, as certified by the Board. The Administrator will send a copy of the decision to each party.

(h) *Remand.* A remand to the Board by the Administrator vacates the Board's decision. After remand, the Board will issue a new decision which shall be final unless the Administrator reverses, affirms, modifies, or again remands the decision in accordance with the provisions of this section.

11. A new section 405.1876 is added, to read as follows:

§ 405.1876 Formal rulings.

The Administrator may issue formal rulings clarifying HCFA policy on technical issues. These rulings are binding on all HCFA components. An Administrator's decision to let a Board decision stand without his or her review, or an Administrator's decision on review that he or she does not designate to be a formal ruling, is not a formal ruling for this purpose. The Administrator's formal rulings will periodically be indexed and published by HCFA.

12. Section 405.1877 is revised to read as follows:

§ 405.1877 Judicial review.

(a) Section 1878(f) of the Act permits a provider to obtain judicial review of a final decision of the Board, or of a reversal, affirmation, or modification by the Administrator of a Board decision, by filing a civil action within 60 days of the date on which the provider received notice of

(1) A final decision by the Board; or

(2) A decision not to review a Board decision or a reversal, affirmation, or modification by the Administrator.

(b) Such action shall be brought against the Secretary of Health, Education and Welfare in the District Court of the United States for the judicial district in which the provider is located, or in the District Court for the District of Columbia. Process shall be served in accordance with 45 CFR Part 4.

13. Section 405.1885 is revised to read as follows:

§ 405.1885 Reopening a determination or decision.

(a) A determination of an intermediary, a decision by an intermediary hearing officer or panel, a decision by the Board, or a decision of the Administrator may be reopened only in accordance with section

(b) If a determination or decision by one of the authorities listed in paragraph (a) of this section has not been taken under review by one of the other reviewing authorities, the first authority may reopen its decision or determination with respect to any issue. However, if the matter has been taken under review, the first authority may only reopen its decision or determination with respect to issues that have not been taken under review, or that were not decided, by the reviewing authority.

(c) An authority may reopen a determination or decision on its own motion or in response to a written request from a party to the determination or decision. An intermediary, or a hearing officer or panel, shall reopen and revise its determination or decision if HCFA notifies the intermediary that the determination or decision is inconsistent with applicable law, regulations, rulings, or instructions.

(d) Except as specified in paragraph (e) of this section, an authority shall not reopen a determination or decision unless:

(1) A party's request for reopening that is accompanied by sufficient documentation to support a reopening is submitted within 3 years after the date

of the notice of the determination or decision being reopened; or

(2) The authority's notice of reopening is mailed within 3 years after the date of the notice of the determination or decision being reopended.

(e) A determination or decision procured by fraud or similar fault of any party may be reopened at any time.

14. Section 405.1887 is revised to read as follows:

§ 405.1887 Notice of reopening and revision.

(a) The authority that reopens a determination or decision shall promptly give written notice of the reopening to the parties, and shall provide them a reasonable period of time in which to present additional evidence or written argument in support of their position.

(b) If the authority revises a determination or decision, it shall give the parties notice of the revised determination or decision, and inform them of their appeal rights.

(Secs. 1102, 1871, and 1878 of the Social Security Act (42 U.S.C. 1302, 1395hh and 1395oo))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 29, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: February 7, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-4719 Filed 2-13-80; 8:45 am]

BILLING CODE 4110-35-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1060

[CSA Instruction 6004-1L, Change 2]

CSA Income Poverty Guidelines (revised)

Correction

In FR Doc. 80-1478, appearing on page 3335 in the issue of Thursday, January 17, 1980 make the following correction.

On page 3335, second column, the second sentence in the "**DATE:**" paragraph should have read: "All comments received prior to March 17, 1980, will be considered in drafting the final amendment to the Rule".

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[Docket No. HM-22; Notice No. 80-3]

Matter Incorporated By Reference

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice of proposed rulemaking is to propose an update of the reference in 49 CFR 171.7(d)(1) to the ASME Boiler and Pressure Vessel Code in order to recognize the addenda through June 30, 1979 to the 1977 edition of the ASME Code.

DATES: Comments must be received on or before March 17, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Delmer F. Billings, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C., 20590, 202-426-2075.

SUPPLEMENTARY INFORMATION: The Compressed Gas Association, Inc., (CGA), has submitted a petition to update the ASME reference in § 171.7(d). The CGA has requested that reference to the addenda to the 1977 ASME Code be updated through June 30, 1979. After review, the MTB has determined that the latest addenda to the 1977 Code should be referenced.

In consideration of the foregoing, Title 49, Code of Federal Regulations, § 171.7(d)(1) would be revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(1) ASME Code means Section VIII (Division 1) and IX of the 1977 edition of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code," and addenda thereto through June 30, 1979, except paragraph UW-11(a)(7) of the Code does not apply.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A, Part 106)

Note.—The Material Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor an environmental impact which would require the preparation of an environmental impact statement under the National Environmental Policy (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the Docket.

Issued in Washington, D.C. on February 8, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-4721 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-60-M

49 CFR Parts 173 and 178

[Docket No. HM-172; Notice No. 80-2]

Marking and Record Retention Requirements for Cylinders

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The MTB proposes to clarify the marking requirements for cylinders and to address other markings which may appear as additional information on cylinders. The MTB also proposes to delete § 173.34(c)(3)(ii) and thereby prohibit a cylinder owner from changing the serial number and any required identification symbol markings on a cylinder. In addition, the MTB is proposing to prescribe requirements for retention of cylinder test reports and to revise the requirements for submission of these reports.

DATE: Comments must be received by May 15, 1980.

ADDRESS: Comments must be addressed to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in room 8426 of the Nassif Building, 400 Seventh Street SW., Washington, D.C. Public dockets may be reviewed between the hours 8:30 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David E. Henry, Office of Operations and Enforcement, Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, telephone (202-755-5893).

SUPPLEMENTARY INFORMATION: The cylinder specifications in Part 178 of the Hazardous Materials Regulations require that each cylinder be marked with a serial number and an identifying symbol of the maker. Numbers and symbols of the purchaser or the user are also permitted by the applicable cylinder specifications to be marked on a cylinder if the maker's symbol appears on the cylinder near the original test date. The MTB believes that deletion of the references in Part 178 to the purchaser's or user's markings in each cylinder specification would eliminate confusion between the required markings of the maker and these optional markings of the purchaser or user. The deletion of the purchaser's and user's markings from the individual cylinder specifications would not prohibit a maker from marking on cylinders a series of numbers specified by an original purchaser, so long as duplication of numbers used by a particular maker does not occur. The maker's serial number may be any number conceived by or suggested to the maker as long as that maker uses it only once, so that the number, in association with the maker's mark, is unique. Markings of the purchaser or user would continue to be permitted on a cylinder as additional information under the provisions of § 173.34(c)(1).

The maker's serial number and an identifying symbol required to be marked on a cylinder, together with the original test date, provide the only means of tracing a cylinder to its original test reports. The Original test reports, in many cases, are needed for proper retest, repair, or rebuilding of a cylinder as these functions must be performed by a process similar to that used during original manufacture. The test report may be the only source for obtaining this information. Because of the invaluable use of such required markings to locate the test reports, the MTB believes these markings should not be changed. Accordingly, this proposal would delete § 173.34(c)(3)(ii) and thereby prohibit a cylinder owner from changing the manufacturer's serial number and his identifying symbol marked on a cylinder. An approval is not required for changes in optional markings.

On September 27, 1979, the MTB published in the **Federal Register** an amendment (Docket HM–163C, 44 FR 55577) to reassign certain approval, registration and recordkeeping responsibilities from the Transportation System Center of the Research and Special Programs Administration to MTB's Associate Director for Operations and Enforcement (OE). Certain of these responsibilities relative to the submission of cylinder reports are discussed below.

Under current requirements, it is the duty of the inspector to furnish complete reports to the purchaser, the maker, and the Associate Director for OE. Also, if a cylinder has been repaired or rebuilt, test reports as required in the original cylinder specification must be furnished to these same parties. The submission of test reports to all purchasers as required by present cylinder specifications is not necessary. For example, a purchaser of a cylinder intended for personal use may not have a need for such reports. However, should a purchaser want the reports, he should have access to them. This proposal would correct this situation by revising the applicable cylinder specifications to require the furnishing of such reports to the purchaser only if they are requested.

Although the cylinder specifications presently require the inspector to submit test reports to the purchaser, the maker and the Associate Director for OE, there is no requirement that any of these parties retain these records. The MTB believes that due to the long term use of cylinders, these reports should be permanently retained by the inspector and the maker of the cylinder. MTB has incorporated these provisions into these proposals. The requirements for submission of test reports to the MTB would be deleted.

Primary drafters of this notice are David E. Henry, Office of Operations and Enforcement; Hattie L. Mitchell, Office of Hazardous Materials Regulation, and George W. Tenley, Jr., Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, Parts 173 and 178 of 49 CFR would be amended to read as follows:

1. In § 173.34, paragraph (c)(1) would be revised; paragraph (c)(3)(ii) would be deleted as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

* * * * *

(c) * * *

(1) Additional information not affecting the markings prescribed in the applicable cylinder specification may be placed on the cylinder. No indentation may be made in the sidewall of the cylinder unless specifically permitted in the applicable specification.

* * * * *

(3) * * *

(ii) Delete

* * * * *

§§ 178.51–19 and 178.61–20 [Amended].

2. The first sentence of §§ 178.51–19(a)(2), and 178.61–20(a)(2) would be amended to read as follows: "A serial number and an identifying symbol of the maker." * * *

3. The second sentence of the following paragraphs would be amended to read: "The symbol and numbers must be those of the maker." * * *

§ 178.36–20(a)(3)
§ 178.49–19(a)(2)
§ 178.37–20(a)(3)
§ 178.50–19(a)(2)
§ 178.38–20(a)(2)
§ 178.52–19(a)(2)
§ 178.39–19(a)(2)
§ 178.53–18(a)(2)
§ 178.40–20(a)(2)
§ 178.54–20(a)(2)
§ 178.41–19(a)(2)
§ 178.55–20(a)(2)
§ 178.42–14(a)(2)
§ 178.57–20(a)(3)
§ 178.43–20(a)(2)
§ 178.58–21(a)(2)
§ 178.44–23(a)(2)
§ 178.59–18(a)(2)
§ 178.47–21(a)(2)
§ 178.60–22(a)(2)
§ 178.48–19(a)(2)
§ 178.68–19(a)(2)

4. The following paragraphs would be revised to read as follows: "Furnish complete reports required by this specification to the maker of the cylinder and, upon request, to the purchaser. The report must be permanently retained by the inspector."

§ 178.36–4(d)
§ 178.50–4(d)
§ 178.37–4(d)
§ 178.51–4(d)
§ 178.38–4(d)
§ 178.52–4(d)
§ 178.39–4(d)
§ 178.53–4(d)
§ 178.40–4(d)
§ 178.54–4(d)
§ 178.41–4(d)
§ 178.55–4(d)
§ 178.42–4(d)
§ 178.56–4(d)
§ 178.43–4(d)
§ 178.57–4(d)
§ 178.44–4(d)
§ 178.58–4(d)
§ 178.47–4(d)
§ 178.61–4(d)
§ 178.48–4(d)
§ 178.68–4(d)
§ 178.49–4(d)

5. The following new sections would be added to read as follows:

"Report retention. The maker of cylinders under this specification must permanently retain the test reports required by this specification."

§ 178.36–23
§ 178.51–22
§ 178.37–23
§ 178.52–22
§ 178.38–23
§ 178.53–21
§ 178.39–22
§ 178.54–23
§ 178.40–23
§ 178.55–23
§ 178.41–22
§ 178.56–22
§ 178.42–16
§ 178.57–23
§ 178.43–23
§ 178.58–24
§ 178.44–26
§ 178.59–21
§ 178.47–24
§ 178.60–25
§ 178.48–22
§ 178.61–22
§ 178.49–22
§ 178.68–21
§ 178.50–22

6. In § 178.59, paragraph (c) of 178.59–3 would be revised to read as follows:

§ 178.59 Specification 8; steel cylinders with approved porous filling for acetylene.

§ 178.59–3 Inspection by whom and where.

* * * * *

(c) Duties of inspector of completed cylinders: Determine porosity of filling and tare weights; verify compliance of marking with prescribed requirements; obtain necessary copies of steel shell reports prescribed in paragraph (b) of this section; furnish complete reports required by this specification to the company that has completed the manufacture of the cylinders and, upon request, furnish complete reports to the purchaser. These reports must be permanently retained by the inspector.

7. In § 178.60, paragraph (c) of § 178.60–3 would be revised to read as follows:

§ 178.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.

§ 178.60–3 Inspection by whom and where.

* * * * *

(c) Duties of inspector of completed cylinders: Determine porosity of filling and tare weights; verify compliance of marking with prescribed requirements; obtain necessary copies of steel shell reports prescribed in paragraph (b) of this section; furnish complete reports required by this specification to the company that has completed the manufacture of the cylinders and, upon request, furnish complete reports to the purchaser. These reports must be permanently retained by the inspector.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part and paragraph (a)(4) of App. A, Part 106.)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on February 7, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80–4738 Filed 2–13–80; 8:45 am]

BILLING CODE 4910–60–M

INTERSTATE COMMERCE COMMISSION

49 CFR Chapter X

[Ex Parte No. MC–131]

Special Limited Authority

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: The United Fresh Fruit and Vegetable Association (United), a nationwide trade association, has filed a written request that the time for filing comments in this proceeding (a notice of proposed rulemaking proceeding was published at 45 FR 2871–2873, January 15, 1980) be extended until February 29, 1980. United contends that it needs an extension of time so that it may consider the rulemaking proceeding at its annual convention in early February.

Some extension for the filing of comments in this proceeding is warranted. However, an extension of 8 days (5 business days) would provide sufficient time for United to gather whatever information it needs from its members at its annual convention so that meaningful comments may be filed. The 8-day extension would not, on the other hand, delay the proceeding for an unreasonable period of time.

Accordingly, the time for filing comments in this proceeding is extended until February 22, 1980.

DATES: Comments should be filed by February 22, 1980.

FOR FURTHER INFORMATION CONTACT: Howell I. Sporn (202) 275–7575, or Donald J. Shaw, Jr. (202) 275–7292.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Dated: February 7, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–4720 Filed 2–13–80; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 45, No. 32
Thursday, February 14, 1980

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking and Public Information; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held at 10:00 a.m., March 7, 1980 in the Library of the Conference, 2120 L Street, N.W., Suite 500, Washington, D.C.

The Committee will meet to discuss the Conference's project on trade regulation rulemaking by the Federal Trade Commission.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting, contact Michael W. Bowers (202–254–7020. Minutes of the meeting will be available on request.

Richard K. Berg,

Executive Secretary.

February 11, 1980.

[FR Doc. 80–4726 Filed 2–13–80; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Flathead National Forest Plan; Intent To Prepare an Environmental Impact Statement for Flathead, Missoula, Powell, Lewis and Clark, Lake and Lincoln Counties, Mont.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and the National Forest Management Act of 1976, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement in conjunction with development of an Integrated Forest Management Plan for the Flathead National Forest.

The purpose of the Forest Plan is to provide short- and long-term management direction for all resources on the approximately 2.3 million acre Flathead National Forest. Once implemented, the Plan may be good for up to 10 years before it must be redone.

As part of the "scoping" procedure, public workshops on issue identification were held in the towns of Bigfork, Whitefish, Columbia Falls and Kalispell, Montana. In addition, the first in a series of progress reports will be sent to persons interested in the planning procedure. This report will seek comment on a list of tentative public issues that have surfaced from previous public participation activities on the Forest. Scoping results will be issued in March 1980, and additional public participation activities will be scheduled in summer 1980 while alternative management plans are being developed.

The draft environmental impact statement is tentatively scheduled for release in January 1981, followed by a three-month public review period. The final environmental impact statement is scheduled for release in September 1981.

Tom Coston, Regional Forester, is the approving official for the Forest Plan. John Emerson, Flathead Forest Supervisor, is the official responsible for preparation of the Plan.

Questions or comments about the planning procedure or this Notice of Intent should be directed to: Flathead Forest Supervisor's Office, Dale Bosworth, Planning Staff Officer, P.O. Box 147, Kalispell, Montana 59901, Phone: (406) 755–5401.

Tom Coston,

Regional Forester.

February 6, 1980.

[FR Doc. 80–4731 Filed 2–13–80; 8:45 am]

BILLING CODE 3410–11–M

Grazing Fee System, Eastern Region

AGENCY: USDA, Forest Service.

ACTION: Regional policy.

SUMMARY: This establishes a new grazing fee policy for the fee years 1980 through 1989 for the following units of the National Forest System in the Eastern United States.

National Forests.—Allegheny, Chequamegon, Chippewa, Green Mountain, Hiawatha, Huron-Manistee, Mark Twain, Monongahela, Nicloet, Ottawa, Shawnee, Superior, Wayne-Hoosier, White Mountain.

Land Utilization Projects.—Hector, Cedar Creek.

It also establishes base fees for the 1980–89 period within the Eastern Region. Three subregional areas, Corn Belt, Lake States, and Northeastern were identified in developing this policy. Different base fees are being established for each subregion based on a comparison of the adjusted value of hay and adjusted private grazing land lease rate in that subregion. In each subregion the lower value formed the base fee.

DATE: Effective March 1, 1980.

ADDRESS: Regional Forester, USDA, Forest Service, 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.

FOR FURTHER INFORMATION CONTACT: Robert Storch, USDA, Forest Service, 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203, 414–291–1371.

SUPPLEMENTARY INFORMATION: This policy has been prepared to fulfill the requirement of 36 CFR 222.53 that grazing fees for all National Forest System lands outside the 16 contiguous western states and the National Grasslands shall be established under concepts and principles similar to those prescribed for the western states (36 CFR 222.51). It implements the requirement of law and executive policy and regulation that grazing fee charges be based on fair market value. Fair market value is defined as the agreed price between a willing buyer and a willing seller both having full knowledge of alternatives.

PUBLIC PARTICIPATION: A proposed policy on grazing fees in the Eastern Region (44 FR 61618) was published in the **Federal Regster** of October 26, 1979, inviting comments for 60 days. Comments were received from 33 sources including individuals, State governments, Federal Government, professional societies, and universities. The comments have been reviewed, analyzed, and considered in preparation

of the final policy. Comments are summarized as follows:

Harvest Costs

Some commented that harvest costs used in the calculation were too low. These costs were derived from published information received from agricultural from agricultural departments at state universities and reflect the best information available.

Annual Operating Costs

There were several comments suggesting these costs were too low and not inclusive of the costs associated exclusively with the grazing on National Forest System lands.

As identified in the proposed policy these costs were hypothetical and did not represent true value. Use of true costs in the fee calculation resulted in a significantly higher figure.

The proposal has been revised to change the term "Annual Operating Costs" to "Differential Operating Costs" to clarify difference in operating costs (forage value, improvement maintenance, predator losses, special grazing management requirements, etc.) between grazing livestock on National Forest System lands and grazing livestock on private lease lands.

Forage Quality

Several comments expressing a desire to further subdivide the region were received. These requests were due to differences in forage quality on both private and National Forest System lands.

The subregions are established to: Conform with existing USDA statistical reporting, agree with Departmental planning efforts, coincide with current agricultural literature, include market similarities, and improve administrative efficiency.

Fees

There was a concern that the proposed fee was too high. Since the proposal, use of updated information has resulted in a significantly lower fee in two of the subregions.

Within each subregion, the base fee will be adjusted annually to reflect annual changes in adjusted hay prices.

This policy is an attempt to derive fair market value from the livestock grazing program and to establish a uniform method of fee determination.

An Environmental Assessment Report has been completed and it has been determined this action will not have any significant environmental effects nor will there be significant social or economic impacts. An Environmental Statement is not required. An Environmental Assessment Report is available from: Director, Recreation, Range, Wildlife and Landscape Management, U.S.D.A., Forest Service, 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.

Eastern Region—Grazing Fee Policy

The Forest Service, Eastern Region is hereby establishing the following grazing fee policy:

1. The base grazing fees and subsequent indexes have been developed for the following subregions to reflect local conditions:

a. Corn Belt Subregion—Illinois, Indiana, Missouri, and Ohio

b. Lake States Subregion—Michigan, Minnesota and Wisconsin

c. Northeastern Subregion—Maine, New Hampshire, New York, Pennsylvania, Vermont, and West Virginia

2. The National Forest System land in New York, West Virginia, and Missouri will have a fee based on the value of an alternative feed source, using adjusted private grazing land lease rate or the adjusted price of hay, whichever is less. This fee is the base fee for the ensuing 10-year period, 1980–89.

3. Grazing fees for new grazing allotments (including special use pasture conversions) on National Forest System land, other than in the States of Missouri, New York, and West Virginia, will be determined by means of competitive bidding on a trial basis through 1989. A minimum acceptable grazing fee will be established annually for competitive bid systems.

4. The grazing fee will be adjusted annually to reflect changes in the value of grazing and permittee costs incurred while grazing on the permit area, Annual adjustment of the grazing fee will not exceed 25 percent of the previous year's fee.

5. The 1980 base grazing fee per animal month for each subregion is shown below:

Corn Belt Sub-Region—$2.48.
Lake Status Sub-Region—$1.70.
Northeastern Sub-Region—$2.49.

J. S. Tixier,

Acting Regional Forester.

[FR Doc. 80-4741 Filed 2-13-80; 8:45 am]

BILLING CODE 3410-11

CIVIL AERONAUTICS BOARD

[Docket 35936]

Commuter Airlines, Inc., Enforcement Proceeding; Amended Notice of Hearing

The hearing in the above-entitled proceeding, previously scheduled for February 20, 1980 (44 FR 77228, December 31, 1979), is rescheduled for April 15, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., February 8, 1980.

Elias C. Rodriguez,

Administrative Law Judge.

[FR Doc. 80-4792 Filed 2-13-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37576]

Miami/Fort Lauderdale-Netherlands Antilles Service Case; Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter will be held on February 28, 1980, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

The Bureau of International Aviation is directed to circulate a request for information and evidence and proposed procedural dates for this proceeding to all carrier parties to the *Caribbean Area Service Investigation, Docket 30697* on or before February 15, 1980. Comments of other parties shall be circulated by February 26, 1980. The submissions of the other parties shall be limited to points on which they differ with the Bureau of International Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., February 8, 1980.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 80-4794 Filed 2-13-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37576]

Miami/Fort Lauderdale-Netherland Antilles Service Case; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., February 8, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-4793 Filed 2-13-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 10-9; Amdt. 1; Transmittal No. 478]

Chief Economist of the Department; Delegation of Authority

Correction

In FR Doc. 80-2516 appearing on page 6144 in the issue of Friday, January 25, 1980, second column, the amendment number in the heading was omitted and should have appeared as set forth above.

BILLING CODE 1505-01-M

[Dept. Organization Order No. 22-5; Transmittal No. 480]

Office of Business Liaison; Organization and Assignment of Functions

Correction

In FR Doc. 80-2519 appearing on page 6146 in the issue of Friday, January 25, 1980, second column, the Order Number should have appeared as set forth above.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6670-A through AA-6670-K]

Alaska Native Claims Selection; Notice for Publication

Corrections

In FR Doc. 80-2056 appearing on page 5402 in the issue of Wednesday, January 23, 1980, make the following changes:

(1) On page 5402, third column, after the third line of T. 7 S., R. 32 W., a line was omitted which should have read: *"State Selection AA-21636".*

(2) On page 5403, second column, fifth line from the top, "reverse" should read "reserve".

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act as amended, 5 U.S.C. App. 1976, notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Friday, March 14, 1980, from 9:30 a.m. to 4:00 p.m. in Room 4830 Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Board was established by the Secretary of Commerce on January 12, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

- A review of the economic outlook by major sector.
- A discussion of the outlook for prices and employment and of strategies for sustaining economic growth and dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-serve basis. Public participation will be limited to request for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Chief Economist for the Department of Commerce, Room 4848, Department of Commerce, Washington, D.C. 20230 (202) 377-3523.

Dated: February 11, 1980.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

[FR Doc. 80-4725 Filed 2-13-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in Officials of the Government of India Authorized To Issue Certifications for Exempt Textile Products

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing a new list of officials of the Government of India who have been authorized to issue certifications for exempt cotton, wool and man-made fiber textile products exported from India.

SUMMARY: The Government of India has notified the United States Government that the officials named on the list that follows this notice are authorized to issue certifications for exempt textile products exported to the United States.

EFFECTIVE DATE: February 11, 1980.

FOR FURTHER INFORMATION CONTACT: Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On November 29, 1979, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (44 F.R. 68504), which established an export visa requirement and certification for exemption of cotton, wool and man-made fiber textile products, produced or manufactured in India and exported to the United States. One of the requirements is that the visas and certifications for exemption must be signed by an official authorized by the Government of India. The Government of India has requested that the officials named on the following list be recognized as authorized to issue certifications for exemption.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Officials of the Government of India Authorized To Issue Exempt Certifications for Textiles and Apparel Exported to the United States

K. C. Angirish
Shri J. V. S. S. Anjaneyulu
Shri S. C. Baisya
Shri M. L. Banerji
Mohan V. Bharwani
S. K. Bhetveigor
Sri S. N. Chatterjee
N. K. Chatterjee
S. Clemshin
Motilal Ramkumar Dass
S. K. Datta
Shri D. B. Ghosh
N. D. Gianchandani

K. K. Goel
Shri L. R. Gupta
B. R. Kolcshik
V. Krishnan
Shri J. B. Mazumder
Shri P. K. Mondal
G. N. Murty
R. V. Nandrekar
K. V. Padmanabhan
E. Parameswaran
V. S. Pillai
M. G. Rajan
G. Ranganahi
Shri A. S. Rama Rao
R. N. Lakshman Rao
Sri K. Narajana Reis
P. K. Saha
Shri C. S. Rao Sahib
P. K. Sanyal
Sri K. Sathyanarayana
P. R. Sen
B. D. Sharma
Ram Singh
Shri Virinder Singh
Shri B. Sivaraman
S. Sivasankaran
J. C. Somadevan
G. S. V. Subramanyam
Shri S. C. Suri
Shri H. S. Swami
Shri D. V. Tyagi
Shri R. K. Verma
Shri B. Wadlawan

[FR Doc. 80-9956 Filed 2-13-80; 8:45 am]
BILLING CODE 3510-25-M

COMMUNITY SERVICES ADMINISTRATION

Addition To Listing of Personnel Serving As Members of Senior Executive Service Performance Review Board

AGENCY: Community Services Administration.

ACTION: Addition to listing of personnel serving as members of this Agency's Senior Executive Service Performance Review Board.

SUMMARY: Pub. L. 95-454 dated October 13, 1978 (Civil Service Reform Act of 1978) requires that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). The following is a listing of those individuals serving as members of this Agency's PRB which appeared in the **Federal Register** Vol. 44, No. 248, Pg. 76381 dated December 26, 1979, with the addition of four individuals (see Nos. 4, 8, 11, and 17) recently appointed to new Senior Executive positions:

1. Ivan Ashley, Regional Director, Region I, Boston, Massachusetts.
2. David M. Cohen, Deputy Associate Director for Economic Development, Office of Economic Development.
3. Ben T. Haney, Regional Director, Region VI, Dallas, Texas.
4. Allen S. Gibson, Assistant Inspector General for Investigations, Office of Inspector General.
5. Laird F. Harris, Director for Regional Operations, Office of Community Action.
6. C. Anthony Jackson, Director for Program Development, Office of Community Action.
7. W. Astor Kirk, Regional Director, Region III, Philadelphia, Pennsylvania.
8. Joseph E. Kratz, Assistant Inspector General for Auditing, Office of Inspector General.
9. Glenwood A. Johnson, Regional Director, Region V, Chicago, Illinois.
10. Thomas J. Mack, Deputy General Counsel, Office of Legal Affairs and General Counsel.
11. Joe P. Maldonado, Deputy Assistant Director for Community Action, Office of Community Action.
12. N. Dean Morgan, Regional Director, Region X, Seattle, Washington.
13. Gerrold K. Mukai, Associate Director for Economic Development, Office of Economic Development.
14. Josephine Nieves, Regional Director, Region II, New York, New York.
15. R. Thomas Rollis, Controller, Office of Management.
16. Alphonse Rodriguez, Regional Director, Region IX, San Francisco, California.
17. Eileen Siedman, Deputy Inspector General, Office of Inspector General.
18. Wayne Thomas, Regional Director, Region VII, Kansas City, Missouri.
19. David E. Vanderburgh, Regional Director, Region VIII, Denver, Colorado.
20. William S. Walker, Regional Director, Region IV, Atlanta, Georgia.
21. Mary P. Valentino (Executive Secretary), Director of Personnel, Community Services Administration.

For Further Information Contact: Mary P. Valentino (202) 254-6170.

Graciela (Grace) Olivarez,
Director.

[FR Doc. 80-4674 Filed 2-13-80; 8:45 am]
BILLING CODE 6315-01-M

Emergency Energy Conservation Service Program: Recapitulation and Clarification of Crisis Intervention Activities Under Fiscal Year 1980 Program Account 22

AGENCY: Community Services Administration.

ACTION: Notice of Clarification.

SUMMARY: CSA is filing a Notice of Clarification regarding the policy governing grants funds in FY 80 under Program Account 22 Crisis Intervention. This notice is needed in order to clarify for grantees the uses to which these funds may be put and their differences from Program Account 80 funds under the Energy Crisis Assistance Program.

FOR FURTHER INFORMATION CONTACT: Richard Saul or Rufus Bradford, Community Services Administration, Energy Programs #334, 1200 19th St. N.W., Washington, D.C. 20506, (202) 632-6503.

SUPPLEMENTARY INFORMATION: 1. *Background.*—In September 1979, FY-1979 Crisis Intervention monies were programed to program account 22 and, where appropriate, redistributed to CAAs and a number of local limited purpose energy grantees in the amount of $10,000 each. Beginning in November 1979, under the agency's Continuing Resolution, additional grants of $20,000 in FY 1980 Program Account 22 Crisis Intervention funds were made to each of these same grantees, bringing to $30,000 the amount available to each grantee for support of Program Account 22 Crisis Intervention activities during fiscal year 1980. In addition $800,000 in Program Account 22 grants were made to Indian grantees, and another $800,000 to Farmworker grantees. This notice reviews and clarifies the policies governing the expenditure of all of the above funds, as reflected in the grant conditions and previous agency communications to the grantees.

2. *Recapitulation and clarification of policy.*—The FY-1980 Program Account 22 Crisis Intervention grants were made to assure that every CAA and local energy grantee had the staff capability to coordinate and carry out crisis intervention activities locally on behalf of the poor and the near poor. It was expected that much of the Program Acount 22 monies would be used to hire and support full time year round Energy Crisis Intervention Coordinators, although this was not a requirement, particularly where agencies already had resources for this purpose.

These coordinators are to be involved in counselling, advocacy, outreach and other related support services, and should also play an important role in community planning in preparation for possible energy emergencies.

As was made clear to State ECAP applicants, Program Account 22 Crisis Intervention funds were not to take the place of administrative funds under the Energy Crisis Assistance Program (ECAP) Program Account 80, and not cause for reducing the share of ECAP administrative funds passed through to local program operators by State ECAP grantees. At the same time, where a local agency's ECAP administrative funds are insufficient to pay for both coordination/supervision of the ECAP program *and* the added costs of outreach, certification, and processing of ECAP applications, the Energy Crisis Intervention Coordinator hired with program account 22 funds may perform the supervisory/coordinating role for the ECAP program as the overall energy coordinator for the local agency.

However, it is imperative that Program Account 22 Crisis Intervention funds provide each CAA with the capability to have staff free to carry out traditional crisis intervention activities in response to genuine crisis situations, as set forth in CSA Instruction 6143–1a.

Thus, Program Account 22 Crisis Intervention funds can also be used for non-cash assistance in crisis situations, including the cost of making emergency fuel deliveries, as set forth in CSA Instruction 6143–1a. They can also be used for the stockpiling of supplies such as kerosene, space heaters, blankets, or firewood (including costs of saws and other tools required for cutting, as well as necessary maintenance and operating costs of vehicles used for collection and delivery), or emergency repairs of heating and cooling systems.

3. *Limitations on assistance.*—Since Program Account 22 Crisis Intervention and Program Account 80 ECAP are two separate programs, assistance provided through Program Account 22 Crisis Intervention activities should not be considered as within any limitation on the amount of assistance which can be provided under ECAP, and the value of such assistance should not be counted in computing the amount of ECAP assistance received by any household.

4. *Duration of program.*—Program Account 22 Crisis Intervention grants were made as twelve month grants, so as to provide year-round capability to CAAs. Consequently there is no mandated termination date for use of these funds.

5. *Non-Federal share.*—In accordance with the provisions of CSA Instruction 6143–1a, there was no non-federal share requirement for program account 22 Crisis Intervention funds.

6. *Clearinghouse review (A–95).*—As previously set forth in the grant documents, A–95 review procedures need not be observed for these FY–80 Program Account 22 Crisis Intervention grants, and the Office of Management and Budget has advised clearinghouses of this via Administrative note No. 13, November 7, 1979. However, grantees were requested to forward to their area wide and state clearinghouses information copies of Forms 325 and 419 at the time they were submitted to CSA Regional Offices, and if they have not done so as yet, they should do so now.

Graciela (Grace) Olivarez,

Director.

[FR Doc. 80–4722 Filed 2–13–80; 8:45 am]

BILLING CODE 6315–01–M

Notice of Decision To Fund 10 Conduit Migrant and Seasonal Farmworker Emergency Energy Conservation Services Programs Operating in Every State Except Hawaii and Alaska

AGENCY: Community Services Administration.

ACTION: Notice to all Boards of Directors of CAA(s) and SEOO(s).

SUMMARY: The Community Services Administration is notifying all Boards of Directors of Community Action Agencies (CAAs) and State Economic Opportunity Offices (SEOOs), in accordance with section 222(a) of the Economic Opportunity Act of 1964, as amended, that a decision has been made to fund ten conduit migrant and seasonal farmworker Emergency Energy Conservation Services Programs operating in every state except Hawaii and Alaska.

Grants are being awarded to the following organizations for operation in the following states: New England Farmworkers Council, Inc. (serving: Vermont, New Hampshire, Massachusetts, Connecticut, Maine and Rhode Island); Rural New York Farmworker Opportunities, Inc. (serving: New York and New Jersey); Farmworkers Corporation, Inc. (serving: Maryland, Pennsylvania, Delaware, Virginia and West Virginia); Delta Housing Development Corporation (serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee and Louisiana); Minnesota Migrant Council Inc. (serving: Illinois, Indiana, Michigan, Minnesota, South Dakota, Ohio and Wisconsin); Colonias del Valle, Inc. (serving: Arkansas, New Mexico, Oklahoma and Texas); ORO Development Corporation (serving: Kansas, Missiouri, Iowa and Nebraska); North Dakota Migrant Council, Inc., (serving: Utah, Montana, Wyoming, North Dakota and Colorado); Campesinos Unidos, Inc., (serving: Arizona, California and Nevada); and Idaho Migrant Council, Inc. (serving: Idaho, Oregon and Washington). These organizations will directly engage in energy crisis relief activities and delegate activities in those areas where the conduit has no direct delivery system.

EFFECTIVE DATE: This notice becomes effective on February 14, 1980.

FOR FURTHER INFORMATION CONTACT: Eduardo Gutierrez, 1200 19th Street, NW., Washington, D.C. 20506, Telephone: (202) 632–6694.

(Sec. 602, 78 Stat. 5301: 42 U.S.C. 2942)

Joseph Maldonado,

Acting Assistant Director, Office of Community Action.

[FR Doc. 80–4599 Filed 2–13–80; 8:45 am]

BILLING CODE 6315–01–M

DEPARTMENT OF DEFENSE

Membership of the Inter-Defense Agency Performance Review Board

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of the Membership of the Inter-Defense Agency Performance Review Board.

SUMMARY: The Department of Defense announces the membership of the Inter-Defense Agency Performance Review Board. The purpose of the Board is to provide fair and impartial review of the Senior Executive Service performance appraisals prepared by the senior executive's immediate and second level supervisor, and make recommendations to the Directors of Defense Agencies regarding acceptance or modifiation of the performance rating; transfer, reassignment or removal from the SES of any senior executive whose performance is considered to be unsatisfactory; nominations for financial performance awards; and nominations for the rank of Meritorious Executive and Distinguished Executive.

EFFECTIVE DATE: February 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Sharon B. Brown, Chief, Senior Executive Service Division, Directorate for Personnel & Security, WHS, Office of the Secretary of Defense, Department of Defense, Pentagon (202) 695–4573 or 695–9313.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314 (c)(4) and DoD Directive 1434.2 (to be published as 32 CFR Part 57), the following are names and titles of the persons who have been appointed to the Inter-Defense Agency Performance Review Board. They will serve a 1-year renewable term, effective the date of this Notice.

Defense Audit Service

Name, and Title

James H. Curry, Deputy Director
Clifford A. Falkenau, Assistant for Audit Reports
William K. Keesee, Associate Director, Intelligence and Communications Audits
Merle A. Meling, Associatae Director, Financial Management and Manpower Audits
Richard T. Russ, Associate Director, Special Program Audits

Defense Communications Agaency

Name, and Title

Robert E. Bookman, Deputy WWMCCS System Engineer
Monte I. Burgett, Chief, Subsystems Engineering Division
Marshall L. Cain, Assistant Manager for Technology and Standards
Bruce J. Campbell, Assistant Manager, NCS Plans and Operation
Richard G. Cleaveland, Chief, ADP Systems Engineering Division
Herbert B. Goertzel, Associate Director for User Support
Robert E. Harshbarger, Assistant Deputy Director, NMCS ADP
David R. Israel, WWMCCS System Engineer
Irwin L. Lebow, Chief Scientist and Associate Director
Robert H. Levine, Deputy Director, DCEC
Robert E. Lyons, Chief, Computer and Software Systems Division
David S. Miquelon, Deputy WWMCCS System Engineer—EUR
Benham E. Morriss, Deputy Director, CCTC
James A. Painter, Assistant Deputy Director, WWMCCS ADP
Camillo J. Pasquariello, Technical Director, MEECN Engineering Division
Samuel D. Pucciarelli, Chief, Computer Systems Division
Maurice J. Raffensperger, Senior Advisor for Technology
Warren G. Reed, Deputy Director for Systems
Joseph Rose, Deputy Manager, National Communications System
Paul Rosen, Deputy Director, Military Satellite Communications Systems
Phillip S. Selvaggi, Chief, Interoperability and Standards Division
Martin A. Thompson, Chief, Switched Systems Division
John T. Whealen, General Counsel

Defense Contract Audit Agency

Name, and Title

Louis M. Esposito, Regional Director, San Francisco Region
Paul Evans, Regional Director, Atlanta Region
Francis G. Green, Regional Director, Philadelphia Region
William Melymuka, Regional Director, Boston Region
Frederick Neuman, Director, Defense Contract Audit Agency
Lawrence Neuman, Regional Director, Chicago Region
Darrell J. Oyer, Assistant Director, Operations and Professional Development
John J. Quill, Counsel
Irving J. Sandler, Assistant Director, Policy and Plans
Alex Soll, Regional Director, Los Angeles Region
Charles O. Starrett, Jr., Deputy Director, Defense Contract Audit Agency

Defense Logistics Agency

Name, and Title

Robert G. Bordley, Chief, Accounting and Finance Division
Richard R. Bruner, Executive Director, Technical and Logistics Service
William J. Cassell, Comptroller
Raymond W. Dellas, Deputy Executive Director, Contract Management
William V. Gordon, Executive Director, Contract Management
Anthony W. Hudson, Staff Director, Civilian Personnel
James R. Jones, Sr., Chief, Operations Budget Division
Karl W. Kabeiseman, Counsel
Roger M. McKinley, Deputy Chief, Defense Logistics Analysis Office
Herman W. Miles, Deputy Administrator, Defense Technical Information Center
Gary P. Quigley, Associate Counsel
Hubert E. Sauter, Administrator, Defense Technical Information Center

Defense Mapping Agency

Name, and Title

Allen E. Anderson, Assistant Deputy Director, Programming
Lawrence F. Ayers, Jr., Deputy Director for Programs, Production and Operations
George D. Boale, Director of Personnel
Kenneth I. Daugherty, Technical Director, DMA Hydrographic/Topographic Center
Pennman R. Gilliam, Deputy Director for Programs, Production and Operations, DMA Hydrographic/Topographic Center
Mark M. Macomber, Technical Director, DMA Aerospace Center
Armando Mancini, Deputy Director for Systems and Techniques
Albert N. Rhodes, Chief, Program/Budget Division and Deputy Comptroller
Frank E. Roth, Assistant Deputy Director for Production and Distribution
John R. Vaughn, Comptroller
Joe Webb, Chief, Acquisition Systems Development Division
Owen W. Williams, Deputy Director, Management and Technology

Defense Nuclear Agency

Name, and Title

Paul H. Carew, Comptroller
Edward E. Conrad, Deputy Director (Science and Technology)
Harold C. Fitz, Jr., Chief, Electronics Vulnerability Division, Radiation Directorate
Cyrus P. Knowles, Assistant to the Deputy Director (Science and Technology) for Testing
Robert B. Oswald, Assistant to the Deputy Director (Science and Technology) for Theoretical Research
Eugene Sevin, Chief, Strategic Structures Division, Shock Physics Directorate
Gordon K. Soper, Scientific Assistant to the Deputy Director (Science and Technology)

Henry E. Lofdahl,

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

February 11, 1980.

[FR Doc. 80-4723 Filed 2-13-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Notice of Entitlements Program Crude Oil Cost Data November 1978 Through November 1979

The Economic Regulatory Administration (ERA) is issuing a bi-monthly notice of crude oil cost data. The purpose of this notice is to make available to the public the effect of the entitlements program on the crude oil costs of the various segments of the refining industry. The first table below sets forth the pre-entitlements costs of crude oil to (1) the major refiners, Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, and Union-Oil, (2) large independent refiners (Amerada Hess, Sohio, Ashland, Coastal, Tosco, Kerr-McGee, and Champlin), and (3) small refiners. The second table below shows the post-entitlement crude oil cost distribution for the 22 major and large independent companies. The third table below shows the pre-entitlement imported crude oil cost distribution for the same 22 companies.

The data are based on the reports filed each month by all refiners on the form ERA–49 in the entitlements program.

Issued in Washington, D.C. February 5, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

For Further Information Contact: Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, NW., Room 6128, Washington, D.C. 20461, (202) 254–8660, or William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, (202) 634–2170.

Table I.—*Crude Oil Costs Before and After Entitlement Payments*

[Dollars per barrel]

		Majors (top 15)[2]		Large independents[3]		Small refiners	
		Pre	Post[1]	Pre	Post[1]	Pre	Post[1]
1978	November	$12.51	$12.91	$13.26	$12.95	$13.07	$12.23
	December	12.68	13.06	13.78	13.25	13.22	12.43
1979	January	12.76	13.24	14.06	13.48	13.60	12.65
	February	13.17	13.65	14.22	13.60	13.72	12.77
	March	13.40	13.82	14.60	14.55	14.11	13.23
	April	14.15	14.60	15.85	15.27	14.82	13.96
	May	14.82	15.42	17.10	16.41	15.89	14.78
	June	16.43	16.93	16.61	17.39	17.76	17.17
	July	18.13	18.71	20.74	19.19	18.74	18.11
	August	19.11	19.62	21.73	20.25	20.52	20.06
	September	19.29	19.85	21.43	20.10	21.43	20.78
	October	20.02	20.68	22.63	23.89	21.60	20.62
	November	21.03	21.81	25.87	24.61	22.92	21.97
Change November to November		8.52	8.90	12.61	11.66	9.85	9.68

[1] Post Entitlements payment costs show the effect of the entitlements payments in the month for which the notice is published even though the payments take place two months later. August data is shown in the entitlement notice for August published in October 1979.

[2] (Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco and Union-Oil.)

[3] (Hess, Sohio, Ashland, Coastal, Tosco, Kerr McGee & Champlin.)

Table II.—*Postentitlement Crude Oil Cost Distribution for 22 Major and Large Independent Companies*[1]

Number of companies with per barrel costs of	November 1978	December 1978	January 1979	February 1979	March 1979	April 1979	May 1979	June 1979	July 1979	August 1979	September 1979	October 1979	November 1979
$11.00 to $11.99	2	1	1	0	0	0	0	0	0	0	0	0	0
$12.00 to $12.99	6	6	8	2	3	2	0	0	0	0	0	0	0
$13.00 to $13.99	13	11	7	12	5	0	2	0	0	0	0	0	0
$14.00 to $14.99	1	4	5	8	13	10	5	2	0	0	0	0	0
$15.00 to $15.99	0	0	1	0	0	7	5	3	1	0	0	0	0
$16.00 to $16.99	0	0	0	0	1	3	6	4	0	1	2	1	0
$17.00 to $17.99	0	0	0	0	0	0	2	5	4	2	1	1	0
$18.00 to $18.99	0	0	0	0	0	0	1	6	5	5	1	1	1
$19.00 to $19.99	0	0	0	0	0	0	1	0	4	2	4	3	1
$20.00 to $20.99	0	0	0	0	0	0	0	2	6	7	6	1	2
$21.00 to $21.99	0	0	0	0	0	0	0	0	0	1	3	7	3
$22.00 to $22.99	0	0	0	0	0	0	0	0	0	3	3	3	5
$23.00 to $23.99	0	0	0	0	0	0	0	0	2	0	1	2	6
$24.00 to $24.99	0	0	0	0	0	0	0	0	0	1	1	2	3
$25.00 to $25.99	0	0	0	0	0	0	0	0	0	0	0	0	0
$26.00 to $26.99	0	0	0	0	0	0	0	0	0	0	0	1	0
$27.00 to $27.99	0	0	0	0	0	0	0	0	0	0	0	0	0
$28.00 to $28.99	0	0	0	0	0	0	0	0	0	0	0	0	0
$29.00 to $29.99	0	0	0	0	0	0	0	0	0	0	0	0	1
$30.00 to $30.99	0	0	0	0	0	0	0	0	0	0	0	0	0

[1] (Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, Union-Oil, Hess, Sohio, Ashland, Coastal, Tosco, Kerr McGee and Champlin.)

Table III.—*Preentitlement Imported Crude Oil Cost Distribution for 22 Major and Large Independent Companies*[1]

Number of companies with per barrel crude oil costs of	November 1978	December 1978	January 1979	February 1979	March 1979	April 1979	May 1979	June 1979	July 1979	August 1979	September 1979	October 1979	November 1979
$13.00 to $13.99	4	1	0	0	0	0	0	0	0	0	0	0	0
$14.00 to $14.99	10	10	5	2	2	0	0	0	0	0	0	0	0
$15.00 to $15.99	7	9	7	10	3	1	0	0	0	0	0	0	0
$16.00 to $16.99	1	1	8	6	11	8	2	1	0	0	0	0	0
$17.00 to $17.99	0	1	0	2	3	2	6	0	0	0	0	0	0
$18.00 to $18.99	0	0	1	1	2	3	3	2	1	0	0	0	0
$19.00 to $19.99	0	0	0	0	1	5	5	5	0	1	0	0	0
$20.00 to $20.99	0	0	0	1	0	2	2	1	2	2	2	1	1
$21.00 to $21.99	0	0	0	0	0	0	2	2	3	2	0	1	0
$22.00 to $22.99	0	0	0	0	0	0	0	4	4	3	1	4	1
$23.00 to $23.99	0	0	0	0	0	0	1	1	3	1	5	2	1
$24.00 to $24.99	0	0	0	0	0	0	1	3	3	4	3	1	2
$25.00 to $25.99	0	0	0	0	0	0	0	0	1	3	4	0	3
$26.00 to $26.99	0	0	0	0	0	0	0	1	2	3	2	6	2
$27.00 to $27.99	0	0	0	0	0	0	0	0	0	1	1	2	4
$28.00 to $28.99	0	0	0	0	0	0	0	0	2	1	2	2	4
$29.00 to $29.99	0	0	0	0	0	0	0	0	0	0	2	1	0
$30.00 to $30.99	0	0	0	0	0	0	0	0	0	0	0	0	1
$31.00 to $31.99	0	0	0	0	0	0	0	0	0	0	0	0	0
$32.00 to $32.99	0	0	0	0	0	0	0	0	0	0	0	0	0
$33.00 to $33.99	0	0	0	0	0	0	0	0	1	1	0	0	0
$34.00 to $34.99	0	0	0	0	0	0	0	0	0	0	0	0	2
$35.00 to $35.99	0	0	0	0	0	0	0	0	0	0	0	1	1

[1] (Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, Union-Oil, Hess, Sohio, Ashland, Coastal, Tosco, Kerr McGee amd Champlin).

[FR Doc. 80-4627 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-199]

ANR Storage Co.; Application

February 8, 1980.

Take notice that on January 18, 1980, ANR Storage Company (ANR), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-199 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing ANR to render gas storage service to Southern Natural Gas Company (Southern) for a period of one year, commencing April 1, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to render gas storage service to Southern for one year beginning April 1, 1980, to assist Southern in meeting the peak day and winter period requirements of its customers until the construction and operation of facilities for long-term gas storage service has been authorized and completed. It is stated that during the period, April 1, 1980, through October 31, 1980, Southern would deliver up to 1,960,000 Mcf of gas to ANR for storage. During the period, November 1, 1980, through March 31, 1981, ANR would redeliver an equivalent volume of gas for the account of Southern, it is asserted.

It is further stated that no new facilities would be required to carry out the proposed service.

ANR states that it would charge Southern for the 50-day storage service a rate of $.5932 per Mcf, and Southern would supply 1.3 percent of the volumes delievered for storage for injection compressor fuel. ANR further asserts it would deduct 0.15 percent of the volumes redelivered to Southern for withdrawal compressor fuel.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 29, 1980, 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. 80-4835 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-22 (PGA80-2, IPR80-2, R&D80-1 and LFUT80-1)]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

February 11, 1980.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on February 4, 1980 tendered for filing, pursuant to Sections 12 (PGA Clause), 12A (Incremental Pricing Surcharges), 13 (Research, Development and Demonstration Cost Adjustment) and 14 (Louisiana First Use Tax Adjustment) of the General Terms and Conditions of its tariff revisions to its FERC Gas TAriff, Third Revised Volume No. 1. The revisions shown on Eighteenth Revised Sheet No. 16 and Second Revised Sheet No. 72-C, provide for Consolidated's semi-annual PGA to be effective March 1, 1980.

Consolidated has included in its filing:

(a) Rate changes from pipeline suppliers in the amount of $66.2 million;
(b) Rate changes from producer suppliers in the amount of $4.6 million;
(c) A rate change to reflect a surcharge of 7.47¢ per dekatherm to recoup amounts accumulated in Account 191, Unrecovered Purchased Gas Costs; and,
(d) A rate change to reflect a Louisiana First Use Tax Adjustment of (0.75¢) to flow through overcollections.

Additionally, Consolidated included Alternate Eighteenth Revised Sheet No. 16. Alternate Eighteenth Revised Sheet No. 16 reflects the increase in producer suppliers over the "Base Cost" shown on Alternate Substitute Alternate Seventeenth Revised Sheet No. 16.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Feb. 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4836 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No ER80-225]

Delmarva Power & Light Co.; Filing

February 11, 1980.

The filing Company submits the following:

Take notice that on February 3, 1980, Delmarva Power & Light Company filed a new Power Purchase Agreement between Delmarva Power & Light Company (DPL) and Atlantic City Electric Company (ACE) dated December 11, 1979.

This Agreement provides for Atlantic City Electric Company to purchase one eighth of the capacity and associated output of Delmarva Power & Light Company Indian River #4 generating unit located at Indian River Power Plant, Millsboro, Delaware until May 31, 1985. The Agreement also provides for delivery of Atlantic City Electric Company's energy from this unit over Delmarva Power & Light Company's existing 230 kV transmission system from Indian River plant to Delmarva's Keeney Substation.

Any person desiring to be heard or to protest said application should file a

petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 3, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80- Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-68]

Delvan Development Corp., Ciba-Geigy Corp.; Petition for Declaratory Order

February 8, 1980.

Take notice that on January 17, 1980, Delvan Development Corporation (Delvan), P.O. Box 58, McIntosh, Alabama, 36553, and Ciba-Geigy Corporation (Ciba), Ardsley, New York, 10502, filed in Docket No. GP80-68, a joint petition for a Declaratory Order under section 1.7(c) of the Commission's Rules of Practice and Procedure, 18 C.F.R. 1.7(c). Petitioners request a Commission determination of the status of Delvan and Ciba with respect to the intrastate transportation and sale of natural gas to their intrastate customers and whether such sales qualify as "first sales" under the Natural Gas Policy Act of 1978 (NGPA).

Ciba operates an agricultural chemical manufacturing plant in McIntosh, Alabama. Ciba purchases some of the natural gas used in this plant from Exxon, USA, which gas is transported to the McIntosh plant by Delvan, a wholly owned subsidiary of Ciba. Ciba and Delvan subsequently resell portions of this natural gas to various intrastate customers.

First, Petitioners request that the Commission determine that Delvan is an intrastate pipeline within the purview of the NGPA; second, that all sales made by Delvan and/or Ciba of natural gas from Delvan's system are not first sales under section 2(21)(B) of the NGPA; and, third, that such sales do not result in a circumvention of maximum lawful prices established under the NGPA.

Any person desiring to be heard or to make any protest with reference to said petition should, within 15 days after publication of this notice in the **Federal Register**, 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 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. 80-4838 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-25]

Edison Sault Electric Co.; Application

February 11, 1980.

Take notice that on February 1, 1980, Edison Sault Electric Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance and sale from time to time on or before December 31, 1980, of short-term notes to commercial banks purchasing such notes as a financial institution up to but not exceeding $1,300,000 in aggregate principal amount with a final maturity date not later than December 31, 1981.

Applicant is incorporated under the laws of the State of Michigan, with its principal place of business in Sault Ste. Marie, Michigan, and is engaged in the electric utility business in the State of Michigan.

Applicant proposes to use the proceed from the issuance of the securities to provide a portion of the funds necessary for the construction, completion, extension and improvement of facilities, the cost of which is expected to total approximately $1,470,000 in 1980.

Any person desiring to be heard or to protest said application should, on or before February 25, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure. 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 the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4839 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Dockets Nos. ER78-19, ER80-141, ER80-156, and ER80-199, et al.]

Florida Power & Light Co.; Order Denying Rehearing, Accepting for Filing and Suspending Rate Schedules and Denying Motion for Extension of Time

Issued: February 6, 1980.

On January 21, 1980, Florida Power and Light Company (FP&L) applied for rehearing of our order in these consolidated dockets directed FP&L to submit a single tariff for application to which interchange transmission services in substitution for 18 individual rate schedules.[1] FP&L has made no argument in its application that was not considerd in our order, and rehearing shall be denied.

The application also requests clarification regarding the scope of the tariff to be filed. FP&L asks whether our order requires a tariff governing interchange transmission services, or—

> * * * requir[es] FPL to file a tariff under which transmission services would be generally available, not limited to the implementation of interchange agreements but emcompassing any conceivable transmission transaction as long as that transaction is arguably within the ambit of the policy statement.

Our order required FP&L to consolidate its numerous rate schedules into a single tariff for interchange transmission services, and include therein its statement of company policy on wheeling availability. The order did not purport to interpret FP&L's policy. That policy may encompass more than interchange services; however, FP&L itself must clarify any ambiguities by delimiting its scope. The company may, of course, file a new statement on transmission availability which identifies any transmission service not included.[2]

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[1] Order Directing The Submission of a Transmission Tariff in Substitution for Individual Rate Schedules (December 21, 1979).

[2] Any new availability statement should also be filed in Docket No. ER77-175 where FP&L's wheeling policy is an issue. We should be apprised of any change in that policy before reaching our decision.

Since the date of our order, FP&L has tendered three additional interchange transmission rates. On December 21, 1979, a service schedule was submitted for New Smyrna Beach, Florida (Docket No. ER80–141). On December 28, 1979, a schedule was tendered for Tampa Electric Co. (ER80–156). And, on January 22, 1980, a schedule was submitted for Orlando, Florida (ER80–199). Each of these schedules is identical to those considered in the order directing the submission of a tariff, and FP&L requests that cost support from Docket No. ER78–19, *et al.*, be incorporated by reference. Our order stated (at 7) that all additional or changed service agreements should be made part of the tariff.

The service agreements submitted in these three new dockets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Rather than deal with these submissions in separate orders, we shall now accept them for filing, suspend each for one day, and consolidate the three dockets with Docket No. ER78–19, as we have done with all service agreements in the sequence of transmission rate filings.[3] FP&L shall include these three service agreements, executed or unexecuted as the case may be, in the tariff which it submits.

Finally, we shall address FP&L's motion for an extension of time in which to comply with our order of December 21, 1979. It requests either an indefinite extension, pending the outcome of other proceedings, or a new compliance date 30 days after we dispose of the application for rehearing. This motion is denied; however, we shall give FP&L seven additional days in which to comply with our order.

The Commission Orders: (A) FP&L's application for rehearing of our order of December 21, 1979, is hereby denied.

(B) FP&L's motion for an extension of time is hereby denied.

(C) FP&L's submissions of service agreements in Docket Nos. ER80–141, ER80–156 and ER80–199 are hereby accepted for filing and suspended for one day, they shall become effective, subject to refund, on February 20, 1980, February 27, 1980, and March 23, 1980, respectively. FP&L is directed to include these agreements as part of its tariff filing.

(D) Within seven days of the date of this order, FP&L shall file the transmission tariff required by this order and our order of December 21, 1979.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4842 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

[3] Protests and petitions to intervene in these proceedings will be accepted until the dates specified in the notices of these filing issued by the Commission's Secretary.

[Docket No. ER80–222

Georgia Power Co.; Filing

February 11, 1980.

The filing Company submits the following:

Take notice that on February 1, 1980, Georgia Power Company (Georgia) tendered for filing a proposed change in the charges under its Interchange Contract with Savannah Electric and Power Company (Savannah), Georgia Rate Schedule FERC No. 798. Georgia states that the proposed change in rate schedule continues the interconnected operation of the parties' systems and provides for emergency assistance, short-term capacity and economy energy interchange service.

Georgia requests waiver of the Commission's notice requirements to allow an effective date of January 1, 1980 to be assigned to the proposed modification. Alternatively, Georgia requests a one-day suspension and consolidation with Docket No. ER79–575.

Georgia states that copies of the proposed modification have been mailed to Savannah and the Presiding Administrative Law Judge and Staff Counsel in Docket No. ER79–575.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4840 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–221]

Kansas City Power & Light Co.; Filing

February 11, 1980.

The filing Company submits the following:

Take notice that on February 1, 1980, Kansas City Power & Light Company ("KCPL") tendered for filing an Electric Interchange Agreement dated December 17, 1979, between KCPL and The Empire District Electric Company ("Empire") to become effective March 1, 1980, the date on which Empire expects to obtain the rights to Kansas Gas and Electric Company's Marmaton-Asbury transmission capacity.

In its filing, KCPL states that the rates included in the Electric Interchange Agreement are KCPL's rate and charges for similar service under schedules previously filed by KCPL with the Federal Energy Regulatory Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4841 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. TA80–1–46 (PGA80–1A and IPR80–1A)]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

February 8, 1980.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on January 28, 1980, tendered for filing with the Commission Fourteenth Revised Sheet No. 27 and First Revise Sheet No. 27A to its FERC Gas Tariff,

First Revised Volume No. 1, to become effective January 1, 1980.

Kentucky West states that the revised tariff sheets are necessary to restate its rates to provide for a reduced PGA rate and for an incremental pricing surcharge for the four month PGA period ending April 30, 1980 in order that such rates be consistent with the rates put into effect during November and December, 1979 by the Commission's order dated January 11, 1980 in Docket No. RP80–7, which order accepted for filing revised tariff sheets restating Kentucky West's effective base tariff rates as of November 1, 1979.

Kentucky West also states that its estimated Maximum Surcharge Absorption Capabilities (MSAC's) under Title II of the NGPA on its system would reduce purchase gas costs for the four month PGA period only by .03¢/dth. Because Kentucky West's Tariff provides for rate changes to be placed in effect whenever the increment is one mill or more, Kentucky West did not reduce its PGA below the rate levels established in Docket No. RP80–7 as aforesaid.

Kentucky West states that a copy of its filing has been served upon its purchasers and interested state commissions and upon each party on the service list of Docket No. RP80–7.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before Feb. 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4844 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

Docket No. TA80–1–60 (PGA80–1)]

Locust Ridge Gas Co.; Change in Rates

February 11, 1980.

Take notice that on Feb. 4, 1980, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3, the following tariff sheet to be effective March 1, 1980: Second Revised Sheet No. 1–A.

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, a Purchased Gas Adjustment (PGA) clause. The overall effect of the filed for adjustments to Locust Ridge's G–1 sales rate is an increase of $1.5049. The adjustments amount to approximately $3,276,000.

Locust Ridge requests waiver of the Commission regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1980.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4845 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP80–202]

Michigan Consolidated Gas Co.; Application

February 8, 1980.

Take notice that on January 21, 1980, Michigan Consolidated Gas Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket NO. CP80–202 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport gas for Michigan Wisconsin Pipe Line Company (Mich Wisc), all as more fully set forth in the aplication on file with the Commission and open to public inspection.

Applicant states that Southern Natural Gas Company (Southern) has entered into a gas storage agreement with ANR Storage Company (ANR) dated October 3, 1979, which provides that during the period from April 1, 1980, through October 31, 1980, Southern would cause up to 1,960,000 Mcf of gas to be delivered to ANR for storage, and that during the 1980–81 Winter Period (November 1, 1980, through March 31, 1981), ANR would redeliver an equivalent volume of gas for the account of Southern.

It is further stated that to provide for the transportation of its gas to and from ANR's storage fields, Southern has entered into a transportation agreement with Mich Wisc which provides that during the period from April 1, 1980, through October 31, 1980, Southern would cause to be delivered to Mich Wisc up to 1,960,000 Mcf of natural gas together with a volume of gas for compressor fuel equivalent to 2.5 percent of the daily volume delivered. These deliveries of gas by Southern to Mich Wisc would be made at an existing point of interconnection between the pipeline facilities of Mich Wisc and Southern in St. Mary Parish, Louisiana, it is stated.

Because Mich Wisc's facilities do not extend the entire distance to ANR's storage fields, Applicant states, Mich Wisc has contracted with Applicant to transport Southern's gas from an existing point of interconnection between the pipeline facilities of Applicant and Mich Wisc at Mich Wisc's Willow-Run Meter Station located in Ypsilanti Township, Washtenaw County, Michigan, to an existing interconnection with the pipeline facilities of Mich Wisc at the latter's W.G. Woolfolk Compressor Station located in Austin Township, Mecosta County, Michigan. It is stated that from this point Mich Wisc would transport the gas to ANR's storage facilities in Kalkaska County, Michigan. It is stated, under the terms of the contract, Mich Wisc would deliver to Applicant during the period between April 1, 1980, and October 31, 1980, up to 1,960,000 Mcf of natural gas at a daily rate of 9,800 Mcf, together with a volume of gas for compressor fuel equivalent to 2.3 percent of the daily volume delivered for transportation. Applicant states that it would redeliver thermally equivalent quantities, back to Mich Wisc at its W.G. Woolfolk Compressor Station, less 1 percent of the daily volume, which would be retained by Applicant as compensation for its compressor fuel usage. According to Applicant, Mich Wisc would transport the gas from that point to ANR's storage facilities in Kalkaska County, Michigan.

Applicant states that during the 1980–81 Winter Period, Applicant would receive deliveries of gas from Mich Wisc at the W.G. Woolfolk Compressor

Station in accordance with the redelivery obligations of ANR as set forth in the gas storage agreement between ANR and Southern, and redeliver such volumes to Mich Wisc at the Willow Run Meter Station.

Applicant further states that in order to render the gas transportation service proposed herein it would utilize only the pipeline and compressor facilities of its Interstate Storage Division, all located within the State of Michigan. According to Applicant, no new facilities would be required.

It is stated Applicant would charge Mich Wisc a rate of $20,738 per month for the transportation service proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 29, 1980, 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. 80-4846 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-213]

Michigan Wisconsin Pipe Line Co.; Application

February 11, 1980.

Take notice that on January 28, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-213 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northern Natural Gas Company (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that approximately 15,000,000 Mcf of proven natural gas reserves have been developed in Eugene Island Area Block 39, offshore Louisiana (Block 39), 65 percent of which is committed to Applicant, 25 percent of which is uncommitted, and 10 percent of which is committed to Northern pursuant to a leasehold interest. Applicant asserts that it would construct and operate the lateral pipeline facilities necessary to connect Block 39 to its offshore system pursuant to its budget authorization. Applicant further states that the purpose of the instant application is to obtain authorization to provide a transportation service for Northern's leasehold interest gas underlying Block 39.

It is stated that in accordance with the terms and conditions set forth in a transportation agreement between it and Northern dated October 30, 1979, Northern would deliver to Applicant up to 3,000 Mcf of natural gas per day attributable to Northern's leasehold interest, and Applicant would in turn transport and deliver equivalent volumes of gas to United Gas Pipe Line Company (United) for the account of Northern. Applicant states that the point of receipt pursuant to said transportation agreement is at the Block 39 production platform and the point of delivery is at an existing onshore interconnection between Applicant and the pipeline system of United located downstream of Applicant's Patterson Compressor Station in St. Mary's Parish, Louisiana. Applicant further states that, as consideration for Applicant's further states that, as consideration for Applicant's providing delivery service, Northern would pay it a monthly demand charge equal to the product of the contract demand volumes and $7.73.

It is stated that the primary term of the transportation agreement would be for fifteen years commencing with the date of initial deliveries.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 3, 1980, 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. 80-4847 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-48 (IPR80-1A)]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in FERC Gas Tariff

February 11, 1980.

Take notice that on February 4, 1980, Michigan Wisconsin Pipe Line Company ("Michigan Wisconin") tendered for filing with the Federal Energy Regulatory Commission ("Commission") the following tariff sheets to be included in its F.E.R.C. Gas Tariff, Original Volume No. 1:

Item No., Tariff Sheet Nos. and Proposed Effective Date

1. Second Substitute First Revised Sheet No. 41 and Second Substitute First Revised Sheet No. 42—Oct. 1, 1979.
2. Substitute Third Revised Sheet No. 7, Substitute First Revised Sheet No. 40, Substitute First Revised Sheet No. 41, Substitute First Revised Sheet No. 42, and Substitute First Revised Sheet No. 43—Nov. 1, 1979.
3. Substitute Fourth Revised Sheet No. 7—Nov. 3, 1979.
4. Substitute Second Revised Sheet No. 41, Substitute Second Revised Sheet No. 42, Substitute Second Revised Sheet No. 43, Substitute Original Sheet No. 43 a, and Substitute Original Sheet No. 43 b—Dec. 1, 1979.
5. Substitute Fifth Revised Sheet No. 7, and Substitute First Revised Sheet No. 7 a—Jan. 1, 1980.

Michigan Wisconsin states that these tariff sheets reflect: (1) compliance with the Commission's Order Nos. 47, *et al.* (Item No. 1, above); (2) a refiling for information purposes only of tariff sheets accepted by the Commission's letter order of January 17, 1980 in *Michigan Wisconsin Pipe Line Company*, Docket Nos. RP79–39 and RP73–14 (PGA Nos. 79–2a and 80–1a) (Items 2 and 3, above); and (3) compliance with the Commission's Order No. 49–A, conforming changes in rates to reflect the Commission's letter order of January 17, 1980 discussed in (2) above, and revisions to previously filed purchased gas cost rates to eliminate a purchased gas cost reduction due to implementation of statewide incremental pricing programs (Items 4 and 5, above).

Michigan Wisconsin further states that it requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to allow the tariff sheets in Items 1, 4 and 5 above to be made effective on the dates proposed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All petitions or protests should be filed on or before Feb. 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4848 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–220]

New England Power Service Co.; Filing

February 11, 1980.

Take notice that on February 1, 1980, New England Power Service Company (NEPS) tendered for filing on behalf of New England Power Company (NEP) amendments to NEP's presently effective demand charge for the sale of Limited Capacity Entitlements to various parties under NEP's FERC Electric Tariff, Original Volume Number 2. NEP states that the following amendments are being filed:

First Revised Page No. 1 to Schedule II–E of the tariff.

First Revised Page No. 5 to Schedule III–E of the tariff.

NEP states that the effect of the proposed amendments will be to increase the fixed demand charge from $37.44 per KW-year to $46.14 per KW-year.

NEP requests an effective date of April 1, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4849 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP80–207]

Northern Natural Gas Co., etc.; Application

February 8, 1980.

Take notice that on January 23, 1980, Northern Natural Gas Company (Northern) 2223 Dodge Street, Omaha, Nebraska 68102, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80–207 a joint 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 pipeline and related facilities, offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that they have the right to purchase or are in the process of completing negotiations for the purchase of all the natural gas from reserves located in Ship Shoal Area Block 84, offshore Louisiana. In order to attach and transport these additional supplies of natural gas, Applicants state they would construct and operate approximately 14.5 miles of 16-inch pipeline, 0.7 mile of 12-inch pipeline, and appurtenant facilities.

According to Applicants, the proposed facilities would provide a capacity of 56,000 Mcf of gas per day and this capacity would be needed to transport the estimated maximum daily volumes that would be expected to be available to Applicants. Applicants state they estimate that the proven reserves attributable to Block 84 would be approximately 45,000,000 Mcf with a corresponding maximum daily production of approximately 55,800 Mcf. It is stated that such reserves would be ready for production in the summer of 1980.

Applicants also state that the proposed Block 87 lateral would be constructed by Northern and owned jointly by Applicants pursuant to an agreement which is being negotiated at this time. It is stated that the cost, ownership and capacity entitlements of the proposed facilities would be based on undivided ownership percentages.

It is stated the cost of the proposed facilities is approximately $5,790,000, which Applicants would finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 29, 1980, 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 4853 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-35 (PGA80-1A and IPR80-1A)]

Northern Natural Gas Co. Purchased Gas Cost Adjustment Rate Change

February 11, 1980.

Take notice that on February 4, 1980, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1
- Substitute Eleventh Revised Sheet No. 4b
- Substitute Twelfth Revised Sheet No. 4b

Original Volume No. 2
- Substitute Twenty-first Revised Sheet No. 1c
- Substitute Twenty-second Revised Sheet No. 1c

Such substitute tariff sheets, to be effective December 27, 1979 and January 1, 1980, reflect revisions to the PGA rates originally filed on October 26, 1979 and November 30, 1979 to be effective December 27, 1979 and January 1, 1980, respectively. The revisions in Northern's year-end PGA reflect elimination of SNG costs pursuant to the Commissions letter order dated December 26, 1979 and a reduction in Northern's storage surcharge pursuant to Northern's Stipulation and Agreement filed September 27, 1979 and Northern's "Further Comments on the Stipulation and Agreement" filed January 30, 1980, at Docket No. CP78-237.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 4854 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-27 (PGA80-2 and IPR80-2)]

North Penn Gas Co.; Proposed Changes In FERC Gas Tariff

February 11, 1980.

Take notice that North Penn Gas Company (North Penn) on Feb. 4, 1980, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective March 1, 1980.

The change in rates contained in this filing reflects an increase of 7.890¢ per Mcf pursuant to § 14.1 of North Penn's tariff to reflect supplier rates which will be in effect during the six-month projected period the rates filed hereunder will be in effect.

Additionally, this filing reflects a surcharge credit of 18.155¢ per Mcf pursuant to § 14.2 and § 14.3 of North Penn's tariff which results from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period July 1, 1979 through December 31, 1979; the jurisdictional portion of refunds received by North Penn for the same period; carrying charges computed in accordance with Commission regulations; a carry-over balance from the surcharge credit effective for the period March 1, 1979 through August 31, 1979; and that portion of emergency gas sale revenues as required pursuant to § 157.50 of the Commission's Regulations.

North Penn respectfully requests a waiver of any of the Commission's Rules and Regulations as may be required to permit Sixty-Fourth Revised Sheet No. PGA-1 and First Revised Sheet No. 15H, submitted herewith, to become effective March 1, 1980 as proposed.

Copies of this filing were served upon North Penn's jurisdictional customers as well as interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Feb. 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4852 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-223]

Ohio Power Co.; Filing

February 11, 1980.

The filing Company submits the following:

Take notice that Ohio Power Company (Ohio Power) on February 4, 1980, tendered for filing a Supplement No. 3 dated as of November 1, 1979 to the Agreement dated April 1, 1974 between Ohio Power and American Municipal Power-Ohio, Inc. (AMP-Ohio), designated Ohio Power Rate Schedule No. 74 and AMP-Ohio Rate Schedule No. 1.

The filing provides for an increase in the demand charge for Short Term Power from $0.70 to $0.85 per kilowatt per week and for an increase in the demand charge for Limited Term Power from $3.75 to $4.50 per kilowatt per month. The filing also provides for increases in the charges for third party Short Term Power transactions from $0.175 to $0.24 per kilowatt per week and in the charge for third party Limited Term Power transactions from $0.75 to $1.00 per kilowatt per month. All of the

aforementioned Schedules are proposed to become effective April 1, 1980.

Applicant states that since the use of Short Term Power and Limited Term Power Services cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Supplement. Applicant's Exhibits I and II which were included with the filing of this Supplement, demonstrates that the increase in revenues which would have resulted had the supplement been in effect during the twelve-month period ending December 1979 would have been (a) Short Term $16,800.02 (i.e., from $200,348.20 to $217,148.22) (b) Limited Term $43,209,96 (i.e., from $562,429.92 to $605,639.88).

Copies of the filing were served upon AMP-Ohio, the City of Orrville, Ohio and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4855 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1887]

Roomy, Nicholas, Jr.; Filing

February 11, 1980.

Take notice that on January 30, 1980, Nicholas Roomy, Jr. (Applicant), filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Appalachian Power Co., Electric Utility
Director, Kanawha Valley Power Co., Electric Utility

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 3, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 4850 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-210]

Southern Natural Gas Co.; Application

February 8, 1980.

Take notice that on January 25, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-210 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

According to Applicant, by order issued October 8, 1971 (46 FPC 831), in Docket Nos. CP71-273, CP71-295 and CP71-296, Applicant was authorized to develop the Muldoon Field in Monroe County, Mississippi, as a gas storage facility. As a part of that order (Docket No. CP71-296), it is stated, Applicant was authorized to sell a fixed volume of natural gas (15,469,452 Mcf) to Texas Eastern.

Applicant states that the certificate issued to Applicant in Docket No. CP71-296 was, upon Applicant's and Texas Eastern's request, amended by the order dated August 27, 1974, to authorize the accelerated or delayed delivery of natural gas from Applicant to Texas Eastern, as might be mutually agreeable subject to the obligation to deliver the total quantity referred to in the June 3, 1971, letter agreement.

It is stated, Applicant has, with the concurrence of Texas Eastern, accelerated deliveries to Texas Eastern so that it is nearing the completion of the total delivery obligation, having delivered 15,401,150 Mcf. Therefore, Applicant states, it wrote to Texas Eastern on March 29, 1979, proposing to request the approval of the Commission to abandon the sale of gas to Texas Eastern and to cancel Applicant's related Rate Schedule F-11 effective upon the date when Applicant completes delivery of the remaining volume of 68,302 Mcf. On April 26, 1979, Texas Eastern gave its concurrence to Applicant's proposal, it is stated.

Applicant states it would not abandon any facilities nor would its services to any other parties be affected by abandonment of natural gas delivery to Texas Eastern.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 29, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission"s Rules of Practice and Procedure, a hearing will be held without further notice before the Commission 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 permission and approval for the proposed abandonment are 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. 4856 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-196]

Texas Gas Transmission Corp.; Application

February 8, 1980.

Take notice that on January 17, 1980, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP80-196 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 one 2,250 horsepower compressor unit at its Midland No. 3 compressor station located in its Midland Gas Storage Field, Muhlenberg County, Kentucky, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the 2,250 horsepower compressor unit so as to provide it with horsepower in addition to the currently utilized 4,000 horsepower at the Midland No. 3 station. It is stated the additional horsepower would enable Applicant to meet operating contingencies in the injection and withdrawal of gas from the Midland Gas Storage Field which have become more pronounced.

Applicant states that the estimated cost of the proposed facilities is $2,890,000 which would be financed from funds on hand. It is further stated that no new services or sales are involved in the instant application.

Any person desiring to be heard or to make any protest with reference to said application should on or before Febraury 29, 1980, 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 Sectioins 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. 4858 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-214]

Texas Gas Transmission Corp.; Application

February 8, 1980.

Take notice that on January 29, 1980, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP80-214 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indenfinite period commencing June 1, 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production or acquired for system supply under Section 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the annual total cost of the proposed facilities would note exceed $20,000,000, with no single onshore project to exceed a cost $2,500,000 and no single offshore project to exceed a cost of $3,500,000. Applicant further states that the total dollar limit for construction during 1980 would not exceed 7/12 of $20,000,000. Applicant proposes to finance these costs from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 29, 1980, 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. 80-4859 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-224]

Tucson Electric Power Co.; Filing

February 11, 1980.

The filing Company submits the following:

Take notice that Tucson Electric Power Compay ("TEP") on February 5, 1980, tendered for filing Amendment No. 2 to the "TGE-PNM 1979-1981 San Juan Generating Station Power Sale Agreement" between TEP and Public Service Company of New Mexico ("PNM"). TEP states that the primary

purpose of Amendment No. 2 is to change the previously agreed to quantity of power and associated energy and to extend the term of the Agreement until April 30, 1982. TEP further states that copies of the filing were served upon PNM.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 3, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make portestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4860 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-190]

United Gas Pipe Line Co.; Application

February 8, 1980.

Take notice that on January 15, 1980, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-190 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 pipeline and related facilities in the Blocker Field area of East Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, United proposes to construct, during 1980, and operate 21.6 miles of 16-inch pipeline and appurtenant facilities to extend from a point in Harrison County, Texas, to a proposed point of interconnection with United's 22-inch Waskom-Goodrich line in Panola County, Texas. It is stated that the proposed facilities are required to connect reserves purchased by United from Amoco Production Company in the Blocker Field area with United's system. United states that as development of reserves in that area continues, additional volumes of gas are expected to be available. As these volumes cannot be delivered into the low pressure Latex-Fort Worth line, the proposed high pressure line is required to deliver such gas into the Waskom-Goodrich line, it is stated.

United states that the estimated cost of construction of such facilities would be $4,155,800, which cost United would finance from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 29, 1980, 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. 80-4861 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-226]

Utah Power & Light Co.; Filing February 11, 1980

The filing Company submits the following:

Take notice that Utah Power & Light Company, on February 6, 1980 tendered for filing a Service Agreement between Utah Power & Light Company and Puget Sound Power & Light Company, dated August 15, 1979, covering the sale of nonfirm energy for resale.

The agreement covered only a period in August 1979, and the billing by Utah amounted to $237,600.71.

Copies of the filing were served on Puget Sound Power & Light Company and the Utah Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 3, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4862 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-8]

Wallace Energy Corp.; Petition for Declaratory Order

February 8, 1980.

Take notice that on January 11, 1980, Mobile Gas Service Corporation (Mobile), P.O. Box 2248, Mobile, Alabama 36601, filed a petition for a declaratory order pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure.[1] Mobile requests that the Commission issue a declaratory order stating that sales of gas made to Mobile by Wallace Energy Corporation are first sales under the Natural Gas Policy Act of 1978 (NGPA) and accordingly, are subject to NGPA maximum lawful prices as of December 1, 1978.

Mobile is a gas distribution utility operating wholly within the State of Alabama. According to Mobile, Wallace, an Alabama corporation known as Chunchula Fuel, Inc. until December 28, 1977, is a broker-supplier of interstate natural gas to Mobile under

[1] Mobile petitioned for Commission review of the December 13, 1979, "Order of the Director, OPPR Granting Interim Relief" in Docket No. SA80-8 and in the alternative, Mobile petitioned for a declaratory order.

a 1976 contract. Wallace's own supplier is Ciba-Geigy Corporation, an international chemical company operating in Alabama.

Mobile contends that the sale by Wallace to Mobile is subject to the NGPA under section 2(21)(A)(ii) which defines, in part, a "first sale" as, "any sale of any volume of natural gas—to any local distribution company." Mobile further states that the section 2(21)(B) exclusion from the first sale definition of sales by pipelines, local distribution companies and affiliates thereof does not apply to Wallace.

Any person desiring to be heard or to make any protest with reference to said petition should, within 15 days after publication of this notice in the **Federal Register**, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4863 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-9803, et al.]

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

February 7, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

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 February 15, 1980, 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 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 certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,

Secretary.

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

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft[3]	Pressure base
G-9803, B, Mar. 27, 1978	The Superior Oil Company, P.O. Box 1521, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corporation, Live Oak Field, Vermilion Parish, Lousiana.		Depleted.
CI80-75, E, Nov. 23, 1979	The Superior Oil Company (Succ. in Interest to Mary Valicenti).	Arkansas Louisiana Gas Company, Northwest Pipeline Corporation, and El Paso Natural Gas Company, N.W. Colquitt Field, Claiborne Parish, Louisiana and Basin Dakota & Mesa Verde Fields, San Juan County, New Mexico.	(1)	15.025
CI80-76, E, Nov. 23, 1979	The Superior Oil Company (Succ. in Interest to John R. Graham, Jr.).	Transcontinental Gas Pipe Line Corporation, *et al.*... Lake Arthur Field, Jefferson Davis Parish, Louisiana, *et al.*	(2)	15.025 14.65
CI80-77, E, Nov. 23, 1979	The Superior Oil Company (Succ. in Interest to John M. Wilson, Sr. Trust).	El Paso Natural Gas Company, *et al*..... Headlee Field, Ector & Midland Counties, Texas, *et al.*	(3)	14.65 15.025
CI80-78, E, Nov. 23, 1979	The Superior Oil Company (Succ. in Interest to Edward and Dorothea Foote).	Columbia Gas Transmission Corporation and Trunkline Gas Company, South Thornwell Field, Jefferson Davis and Cameron Parishes, Louisiana.	(4)	15.025
CI80-79, E, Nov. 23, 1979	The Superior Oil Company (Succ. in Interest to Dorothy W. Griffith).	Arkansas Louisiana Gas Company, *et al.*, N.W. Colquitt Field, Claiborne Parish Louisiana, *et al.*	(5)	15.025
CI80-81, (CI63-1139), B, Nov. 29, 1979.	Harper Oil Company, 904 Hightower Building, 105 North Hudson, Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Company, North Drummond Area, Garfield County, Oklahoma.	Release by purchaser.....	.....
CI80-83, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*), P.O. Box 2511, Houston, Tex. 77001.	Montana-Dakota Utilities Co., Fremont County, Wyoming.	(6)	15.025
CI80-84, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Montana-Dakota Utilities Co., Pavillion Field, Fremont County, Wyoming.	(6)	15.025
CI80-85, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Montana-Dakota Utilities Co., Pavillion Field, Fremont County, Wyoming.	(6)	15.025
CI80-86, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Kansas Nebraska Natural Gas Company Inc., Alkali Butte Field, Fremont County, Wyoming.	(6)	15.025
CI80-87, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company).	Panhandle Eastern Pipeline Company, Keyes Field, Cimarron County, Oklahoma.	(7)	14.65
CI80-88, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Northwest Pipeline Corporation, Blanco Mesaverde & Palmer Fields, San Juan County, New Mexico.	(8)	15.025
CI80-89, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Northwest Pipeline Corporation, Twin Buttes Field, Garfield County, Colorado.	(8)	15.025
CI80-90, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company).	El Paso Natural Gas Company, Palmer Field, San Juan County, New Mexico.	(7)	15.025

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI80-91, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company).	Northwest Pipeline Corporation, Blanco Mesaverde Field, San Juan County, New Mexico.	(6)	15.025
CI80-93, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company).	South Canyon, Bridle, Twin Buttes, Bryson Canyon, and Palmer Fields, Garfield County, Utah, Mesa Grande County, Colorado.	(6)	15.025
CI80-94, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company).	Northwest Pipeline Corporation, Palmer Field, San Juan County, New Mexico.	(6)	15.025
CI80-95, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Northwest Pipeline Corporation, Blue Cloud Field, Rio Blanco County, Colorado.	(6)	15.025
CI80-96, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Montana-Dakota Utilities Company, Pavillion Field, Fremont County, Wyoming.	(6)	15.025
CI80-97, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Colorado Interstate Gas Company, South Canyon, Bridle, and Palmer Fields, Garfield County, Colorado.	(6)	15.025
CI80-98, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company).	El Paso Natural Gas Company, Basic Dakota & Blanco Mesaverde Fields, San Juan County, New Mexico.	(7)	15.025
CI80-99, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Arkansas Louisiana Gas Company, Pine Hollow Field, South Pittsburg County, Oklahoma.	(8)	14.65
CI80-100, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Northwest Pipeline Corporation, Blanco Mesaverde and Palmer Fields, San Juan County, New Mexico.	(6)	15.025
CI80-101, E, Nov. 30, 1979	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, *et al.*).	Northwest Pipeline Corporation, Blanco Mesaverde Field, San Juan County, New Mexico.	(6)	15.025
CI80-102, A, Nov. 30, 1979	Sun Oil Company, P.O. Box 20, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Company, Lester No. 1-9 Well, Sec. 9-T13N-R24W, Roger Mills County, Oklahoma.	(9)	14.65
CI80-103, A, Nov. 30, 1979	Texas Eastern Exploration Co., P.O. Box 2521, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corporation, Block 619, West Cameron Area, South Addition, Offshore Louisiana.	(10)	14.73
CI80-108, A, Dec. 6, 1979	Sun Oil Company, P.O. Box 20, Dallas, Tex. 75221.	Northwest Pipeline Corporation, Basin Dakota Field, San Juan County, New Mexico.	(11)	15.025
CI80-109 (CI61-1789), B, Oct. 9, 1979.	Getty Oil Company, P.O. Box 1404, Houston, Tex. 77001.	Texas Eastern Transmission Corporation, Joe Cook No. 1 Gas Unit, Mercedes Field, Hidalgo County, Texas.	(12)	
CI80-110 (CI60-15), B, Oct. 9, 1979.	Getty Oil Company, P.O. Box 1404, Houston, Tex. 77001.	United Gas Pipe Line Company, LaWard-North Field, Jackson County, Texas.	Wells plugged and abandoned, and lease released.	
CI80-111, A, Dec. 10, 1979	Harper Oil Company, 904 Hightower building, 105 North Hudson, Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Company, Flaming 1-19, Sec. 19-4N-19ECM, Texas County, Oklahoma.	(13)	14.65
CI80-112, A, Dec. 10, 1979	Harper Oil Company	Panhandle Eastern Pipe Line Company, Chance 1-24, Sec. 24-4N-18ECM, Texas County, Oklahoma.	(14)	14.65
CI80-113, (CI63-1139), B, Dec. 12, 1979.	Harper Oil Company	Arkansas Louisiana Gas Company, North Drummond Area, Garfield County, Oklahoma.	Release by purchaser	
CI80-114, (CI69-841), B, Nov. 15, 1979.	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	Arkansas Louisiana Gas Company, N.E. Mayfield Field, Beckham County, Oklahoma.	(15)	
CI80-135, B, Dec. 17, 1979	Frank Cass, Suite 2555 2001 Bryan Tower, Dallas, Tex. 75201.	Phillips Petroleum Company, SE/4 of Section 44, Block C, L&SVRR Co. Survey, Reagan County, Texas (Spraberry Trend Field).	Depleted to the extent that the continuance of service is unwarranted.	
CI80-136, (G-10336), B, Dec. 20, 1979.	Secure Trusts, 1401 Elm, Dallas, Tex. 75202	Trunkline Gas Company, Clear Creek Field, Allen and Beauregard Parishes, Louisiana.	Depletion of the gas reserves	
CI80-137, (G-10335), B, Dec. 20, 1979.	Estate of H. L. Hunt, 2900 First Nat'l. Bank Bldg., Dallas, Tex. 75202.	Trunkline Gas Company, Clear Creek Field, Allen and Beauregard Parishes, Louisiana.	Depletion of the gas reserves	
CI80-139, (G-12220), B, Dec. 19, 1979.	Getty Oil Company, P.O. Box 1404, Houston, Tex. 77001.	Northern Natural Gas Company, Ford Country, Kansas.	(16)	
CI80-143, A, Dec. 21, 1979	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Northern Natural Gas Company, Certain depths in the North half (½) of Block A-131, Galveston Area, Offshore Texas.	(17)	14.65
CI80-144, A, Dec. 21, 1979	Kerr-McKee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Natural Gas Pipeline Company of America, Vermilion Area Blocks 276 and 287, Offshore Louisiana.	(18)	15.025
CI80-145, A, Dec. 21, 1979	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Northern Natural Gas Company, Certain depths in the South half (½) of Block A-157, Galveston Area, Offshore Texas.	(17)	14.65
CI80-147, A, Dec. 26, 1979	Louisiana Land Offshore Exploration Company, Inc., P.O. Box 60350, New Orleans, La. 70160.	Transcontinental Gas Pipe Line Corporation, Certain acreage located in Block 619 Field, West Cameron Area, Offshore Louisiana.	(19)	15.025
CI80-148, A, Dec. 26, 1979	Texas Gas Exploration, P.O. Box 52310, Houston, Tex. 77052.	Columbia Gas Transmission Corporation, "A" and "B" Platforms, Block 271, South Addition, Ship Shoal Area, Offshore Louisiana.	(20)	14.73
CI80-149 (G-6037), B, Dec. 27, 1979.	Monsanto Company, 1300 Post Oak Tower 5051 Westheimer, Houston, Tex. 77056.	Tennessee Gas Pipeline Company, Placedo Unit, Victoria County, Texas.	(21)	
CI80-150, A, Dec. 31, 1979	Amerada Hess Corporation, 1200 Milam, 6th Floor, Houston, Tex. 77002.	Texas Eastern Transmission Corporation, Block 294, East Cameron Area, South Addition, Offshore Louisiana.	(22)	15.025
CI80-151, B (G-4283), Dec. 28, 1979.	Mitchell Energy Corporation, 3900 One Shell Plaza, Houston, Tex. 77002.	Natural Gas Pipeline Company of America, Wise County Area Field, Wise, Jack and Parker Counties. Tex.	Abandonment pursuant to Commission Order of Oct. 23, 1979 detailing prior histories of questioned wells.	
CI80-155 (CI77-531), B, Dec. 3, 1979.	Exxon Corporation, P.O. Box 2180, Houston, Tex., 77001.	Columbia Gas Tranmission Corporation, Pecan Island Field, Vermilion Parish, Louisiana.	Depleted and the contract has been cancelled.	
CI80-156 (CI7-212), B, Dec. 3, 1979.	Exxon Corporation	Columbia Gas Transmission Corporation, Lake Sand Field, St. Mary and Iberia Parishes, Louisiana.	Depleted and the contract has been cancelled.	
CI80-157 (CI55-153*, B, Dec. 3, 1979.	Exxon Corporation	Columbia Gas Transmission Corporation, West Delta Block 117 Field, Offshore Louisiana.	Depleted and the contract has been cancelled.	
CI80-158 (CI7-371), B, Dec. 3, 1979.	Exxon Corporation	Columbia Gas Tranmission Corporation, Grand Isle Block 16 Field, Offshore Louisiana.	Depleted and the contract has been cancelled.	
CI80-159, A, Jan. 3, 1980	The Superior Oil Company, P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Company, West Cameron Block 71 Field, Offshore Louisiana.	(22)	15.025
CI80-160, F, Jan. 4, 1980	Gas Producing Enterprises, Inc., *et* l. (Partial Succ. in Interest to Barnett Oil Company), Nine Greenway Plaza, Houston, Tex. 77046.	Colorado Interstate Gas Company, West Panhandle Field, Potter County, Texas.	(23)	14.65
CI80-161, A, Jan. 4, 1980	American Petroleum Company of Texas, P.O. Box 2159, Dallas, Tex. 75221.	El Paso Natural Gas Company, San Juan Unit 29-7, Rio Arriba County, New Mexico.	(24)	14.65
CI80-163, B, Jan. 7, 1980	Geo. Oil and Gas Company of Houston (Succ. in Interest to Palmer Oil & Gas Company, et al.), P.O. Box 2511, Houston, Tex. 77001.	Northest Pipeline Corporation, Garfield County Colorado.	(6)	15.025

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI80-165 (CI64-1186), B, Jan. 7, 1980.	Secure Trusts, 1401 Elm, Dallas, Tex. 75202	Northern Natural Gas Company, McKinney (Council Grove) Area, Meade County, Kansas.	[25]	
CI80-166 (G-10192), B, Dec. 13, 1979.	Monsanto Company, 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	Tennessee Gas Pipeline Company, Sullvian Field, Hidalgo and Starr Counties, Texas.	[26]	
CI80-167, E, Jan. 15, 1980	Gulf Oil Corporation (Succ. in Interest to Kewanee Oil Company), P.O. box 2100, Houston, Tex. 77001.	Equitable Gas Company, Certain acreage located in the Glenville West Field, Gilmer County, West Virginia.	[26]	14.65
CI80-168, A, Jan. 14, 1980	Columbia Gas Development Corporation, P.O. Box 1350, Houston, Tex. 77001.	Columbia Gas Transmission Corporation, Block 426, Platform "A", West Cameron Area, South addition, Offshore Louisiana.	[28]	15.025
CI80-169, A, Jan. 17, 1980	Transco Exploration Company, P.O. Box 1396, Houston, Tex. 77001.	United Gas Pipe Line Company, Southwest quater (SW/4) of Block A-312, Offshore Gulf of Mexico.	[22]	14.73
CI80-170, B, Jan. 17, 1980	Barrons Resources, Inc., 919 Third Avenue, New York, N.Y. 10022.	El Paso Natural Gas Company, Wilson (Penn) Field, Morrow Formation, Lea County, New Mexico.	Depletion of dedicated formation..	
CI80-171, A, Jan. 16, 1980	Anadarko Production Company, P.O. Box 1330, Houston, Tex. 77001.	Northern Natural Gas Company, Eichwald No. 1-10 Well, Ivanhoe NE Field, Beaver County, Oklahoma.	[29]	14.65
CI80-172, A, Jan. 16, 1980	Shell Oil Company, Two Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corporation, Eugene Island Block 136, Offshore Louisiana.	[22]	15.025
G-17888, B, Mar. 26, 1979	Shell Oil Company, Two Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	El Paso Natural Gas Company, Clear Lake Field, Beaver County, Oklahoma.	Reserves depleted, Well(s) plugged and abandoned and leases released to landowner.	
CI62-38, B, Sept. 7, 1979	Texaco, Inc., P.O. Box 2420, Tulsa, Okla. 74102	Panhandle Eastern Pipe Line Company, N.E. Carthage Field, Texas County, Oklahoma.	Acreage was assigned to Raymond Oil Company.	
CI67-171, B, May 17, 1974	Edwin L. Cox, 1800 First Natl. Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Company, Woodward Area, Dewey County, Oklahoma.	Wells plugged and abandoned and leases released.	
CI69-1162, B, Sept. 18, 1979	Amerada Hess Corporation, 1700 Milam, 6th Floor, Houston, Tex. 77002.	Tennessee Gas Pipeline Company, Block 174, West Cameron Area, Offshore Louisiana.	Wells plugged and abandoned and leases released.	

[1] Effective 4-1-78 Mary Valicenti conveyed and transferred to Applicant all of its oil and gas properties and assets, together with all rights, privileges, obligations and responsibilities incident thereto. Applicant wishes to continue to sell natural gas in interstate commerce pursuant to the Gas Contracts and amendments thereto which Mary Valicenti was selling her proportionate working interest share of gas under a "small producer" certificate of public convenience and necessity issued 11-15-76 and designated as Certificate Number CS77-78.

[2] Effective 4-1-78 John R. Graham, Jr. conveyed and transferred to Applicant all of its oil and gas properties and assets, together with all rights, privileges, obligations and responsibilities incident thereto. Applicant wishes to continue to sell natural gas in interstate commerce pursuant to the gas contracts and the amendments thereto under which John R. Graham, Jr. was selling his proportionate working interest share of gas under a "small producer" certificate of public convenience and necessity issued 10-26-77 and designated as Certificate Number CS77-33.

[3] Effective 4-1-78 John M. Wilson, Sr. Trust conveyed and transferred to Applicant all of its oil and gas properties and assets, together with all rights, privileges, obligations and responsibilities incident thereto. Applicant wishes to continue to sell natural gas in interstate commerce pursuant to the gas contracts and the amendments thereto under which John M. Wilson, Sr. Trust was selling his proportionate working interest share of gas under a "small producer" certificate of public convenience and necessity issued 11-3-76 and designated as Certificate Number CS77-50.

[4] Effective 4-1-78 Edward and Dorothea Foote conveyed and transferred to Applicant all of its oil and gas properties and assets, together with all rights, privileges, obligations and responsibilities incident thereto. Applicant wishes to continue to sell natural gas in interstate commerce pursuant to the gas contracts and the amendments thereto under which Edward and Dorothea Foote were selling their proportionate working interest share of gas under a "small producer" certificate of public convenience and necessity issued 7-13-76 and designated as Certificate Number CS76-941.

[5] Effective 4-1-78 Dorothy W. Griffith conveyed and transferred to Applicant all of its oil and gas properties and assets, together with all rights, privileges, obligations and responsibilities incident thereto. Applicant wishes to continue to sell natural gas in interstate commerce pursuant to the gas contracts and the amendments thereto under which Dorothy W. Griffith was selling her proportionate working interest share of gas under a "small producer" certificate of public convenience and necessity issued 10-26-76 and designated as Certificate Number CS77-34.

[6] GEO. Oil and Gas Company of Houston (GEO), is acquiring this property as of 6-1-79. Sales have previously been made pursuant to small producer certificates of Palmer Oil & Gas Company (Palmer), CS75-0362, National Bulk Carriers, Inc. CS76-0237, and the Blue Jay Corporation CS75-0363. GEO. requests that the Commission issue both temporary and permanent certificates of public convenience and necessity authorizing GEO., effective 6-1-79, to continue the service previously rendered by Palmer as herein described.

[7] GEO. Oil and Gas Company of Houston, (GEO), is acquiring this property as of 6-1-79. Palmer Oil & Gas Company (Palmer) small producer certificate pursuant to which this sale previously has been made is in Docket No. CS75-0362. GEO. requests that the Commission issue both temporary and permanent certificates of public convenience and necessity authorizing GEO., effective 6-1-79, to continue the service previously rendered by Palmer as herein described.

[8] GEO. Oil and Gas Company of Houston, (GEO), is acquiring this property as of 6-1-79. Sales have previously been made pursuant to small producer certificates of Palmer Oil and Gas Company (Palmer) CS75-0362 and the Blue Jay Corporation CS75-0363. GEO. requests that the Commission issue both temporary and permanent certificates of public convenience and necessity authorizing GEO., effective 6-1-79, to continue the service previously rendered by Palmer as herein described.

[9] Applicant is filing under Gas Purchase Contract dated 10-5-79.

[10] Applicant is willing to accept temporary authorization conditioned to the applicable maximum lawful price, including any increases in such rate prescribed, allowed, or published by the Commission; provided that Applicant or the operator, Marathon, shall also be entitled to file applications with the appropriate jurisdictional agencies for increases to any higher contractually authorized prices allowed by the regulations of the Commission under both the NGA and the NGPA.

[11] Applicant is filing under Gas Purchase Contract dated 6-1-79.

[12] The only well covered under Getty Oil Company's rate schedule No. 111 has not produced commercial quantities of natural gas since April, 1978, has no recompletion possibilities, and is considered to be depleted.

[13] Applicant is filing under Gas Sales Contract dated 9-22-78.

[14] Applicant is filing under Gas Sales Contract dated 9-21-78.

[15] Nonproductive, the Brown Unit No. 1 well, Section 5-10N-25W, was the only productive property under contract and ceased producing in 1974 and such well was plugged and abandoned on 5-27-75. Leases expired and reverted back to the landowners.

[16] Of the leases dedicated under the 2-6-57 gas contract, the J. M. Karnes Unit was the only property which was productive of natural gas. Effective 1-1-72, Skelly assigned all of its interest in the J. M. Karnes Unit to Graham-Michaelies Drilling Company. The other leases remained undeveloped and reverted to lessors.

[17] Appiicant is filing under Gas Purchase Contract dated 11-5-79.

[18] Applicant is filing under Gas Purchase Contract dated 12-11-79.

[19] Applicant is willing to accept a certificate conditioned upon a price equal to the maximum lawful price under Section 104 of the NGPA, reserving its right to collect any higher applicable NGPA rate.

[20] Applicant is willing to accept the rates set forth in Section 104 of Title I of the NGPA of 1978 and as more fully set forth in Subpart D of Part 271 of the Commission's Regulations under the NGPA of 1978.

[21] Leases covered under Gas Purchase Contract dated 1-1-49, were sold many years ago. Land records have long since been destroyed and the contract expired by its own terms on 1-1-69.

[22] Applicant is willing to accept the applicable maximum lawful price as provided by the NGPA of 1978.

[23] Pursuant to Farmout Agreement dated 10-2-78 and subsequent Assignment dated 12-14-79 but effective 2-21-79, Applicant acquired the rights to develop approximately 430 acres of Barnett's Masterson lease in Sections 83 and 84, Block B-2, G&M Survey, Potter County, Texas.

[24] Applicant is filing under Gas Purchase Contract dated 11-13-79.

[25] Applicant does not have any interests in the leases covered by the contract dated 3-24-64 and leases have either expired or assigned to another party.

[26] The only productive acreage covered by Monsanto Company's Rate Schedule No. 8 was assigned to Delbert R. Wallace by instrument dated 11-11-79, which is on file with the Commission. Other nonproductive leases reverted back to landowners in 1970. Contract expired by its own terms on 1-27-76.

[27] Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in properties covered by contract dated 9-21-71, as amended.

[28] Applicant is filing under Gas Purchase and Sales Agreement dated 12-7-79.

[29] Applicant is filing under Gas Purchase Contract ("Agreement") dated 9-14-62, as amended.

[30] Applicant is filing under Contract dated 5-1-78.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-4857 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

[No. 141]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 28, 1980.

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.

North Dakota Geological Survey

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. 80–11519
2. 33–105–00786–0000
3. 102 000 000
4. Tenneco Oil Company
5. Booke #1–8
6. Missouri Ridge
7. Williams, ND
8. 29.2 million cubic feet
9. January 4, 1980
10. Montana Dakota Utilities Co

Ohio Department of Natural Resources, Division of Oil and Gas

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. 80–11457/07771
2. 34–169–22137–0014
3. 103 000 000
4. Frank A Csapo Jr
5. Robert Lengacher #1
6.
7. Wayne, OH
8. 20.0 million cubic feet
9. January 2, 1980
10. Columbia Gas Trans Corp

1. 80–11458/07809
2. 34–167–24170–0014
3. 103 000 000
4. L & M Exploration Inc
5. Bernard Strahler #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. January 2, 1980
10. Gas Transport Inc

1. 80–11459/07855
2. 34–167–24634–0014
3. 103 000 000
4. C W Riggs Inc
5. Wm Bowersock #1
6. Reno Field
7. Washington, OH
8. 10.0 million cubic feet
9. January 2, 1980
10.

1. 80–11460/07856
2. 34–167–24616–0014
3. 103 000 000
4. C W Riggs Inc
5. Wm Bowersock #2
6. Reno Field
7. Washington, OH
8. .0 million cubic feet
9. January 2, 1980
10.

1. 80–11461/07887
2. 34–115–00675–0014
3. 108 000 000
4. Cameron Brothers
5. Woodyard #5
6.
7. Morgan, OH
8. .3 million cubic feet
9. January 2, 1980
10. Columbia Gas Trans Corp

1. 80–11462/08002
2. 34–127–23693–0014
3. 108 000 000
4. Irvin Producing Company
5. Maxwell #B11
6.
7. Perry, OH
8. 2.3 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11463/08003
2. 34–127–23674–0014
3. 108 000 000
4. Irvin Producing Company
5. Maxwell #B10
6.
7. Perry, OH
8. 2.3 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11464/08004
2. 34–127–23736–0014
3. 108 000 000
4. Irvin Producing Company
5. Maxwell #B9
6.
7. Perry, OH
8. 2.3 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11465/08005
2. 34–127–23732–0014
3. 108 000 000
4. Irvin Producing Co
5. Maxwell #B8
6.
7. Perry, OH
8. 12.3 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11466/08024
2. 34–119–23745–0014
3. 108 000 000
4. The Benatty Corporation
5. C Vernon 76–A
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11467/08025
2. 34–157–23382–0014
3. 103 000 000
4. Floyd E Kimble dba Red Hill Dev
5. J Stauffer #1
6.
7. Tuscarawas, OH
8. 30.0 million cubic feet
9. January 2, 1980
10.

1. 80–11468/08026
2. 34–157–23374–0014
3. 103 000 000
4. Floyd E Kimble dba Red Hill Dev
5. N Roemer #1
6.
7. Tuscarawas, OH
8. 29.0 million cubic feet
9. January 2, 1980
10.

1. 80–11469/08027
2. 34–157–23364–0014
3. 103 000 000
4. Floyd E Kimble dba Red Hill Dev
5. J Comanita #1
6.
7. Tuscarawas
8. 30.0 million cubic feet
9. January 2, 1980
10.

1. 80–11470/08028
2. 34–157–23425–0014
3. 103 000 000
4. Floyd E Kimble dba Red Hill Dev
5. G Garber #1
6.
7. Tuscarawas, OH
8. 30.0 million cubic feet
9. January 2, 1980
10.

1. 80–11471/08029
2. 34–157–23369–0014
3. 103 000 000
4. Floyd E Kimble dba Red Hill Dev
5. Cap #2
6.
7. Tuscarawas, OH
8. 19.0 million cubic feet
9. January 2, 1980
10.

1. 80–11472/08030
2. 34–157–23401–0014
3. 103 000 000
4. Floyd E Kimble dba Red Hill Dev
5. B Brown #1
6.
7. Tuscarawas, OH
8. 27.0 million cubic feet

9. January 2, 1980
10.

1. 80–11472/08030
2. 34–157–23401–0014
3. 103 000 000
4. Floyd E Kimble dba Red Hill Dev
5. B Brown #1
6.
7. Tuscarawas, OH
8. 27.0 million cubic feet
9. January 2, 1980
10.

1. 80–11473/08037
2. 34–133–22083–0014
3. 103 000 000
4. Viking Resources Corporation
5. Young Unit #2
6.
7. Portage, OH
8. 30.0 million cubic feet
9. January 2, 1980
10.

1. 80–11474/08038
2. 34–133–22085–0014
3. 103 000 000
4. Viking Resources Corporation
5. Young Unit #1
6.
7. Portage, OH
8. 30.0 million cubic feet
9. January 2, 1980
10.

1. 80–11475/08039
2. 34–151–23078–0014
3. 103 000 000
4. Viking Resources Corporation
5. Mabry Unit Well #1
6.
7. Stark, OH
8. 30.0 million cubic feet
9. January 2, 1980
10.

1. 80–11476/08040
2. 34–151–23062–0014
3. 103 000 000
4. Viking Resources Corporation
5. H J Wolfe #6
6.
7. Stark, OH
8. 30.0 million cubic feet
9. January 2, 1980
10.

1. 80–11477/08041
2. 34–151–23048–0014
3. 103 000 000
4. Viking Resources Corporation
5. H Wolfe #5
6.
7. Stark, OH
8. 30.0 million cubic feet
9. January 2, 1980
10.

1. 80–11478/08042
2. 34–151–23061–0014
3. 103 000 000
4. Viking Resources Corporation
5. C & H Wolfe #1
6.
7. Stark, OH
8. 30.0 million cubic feet
9. January 2, 1980
10.

1. 80–11479/08044
2. 34–167–24689–0014
3. 103 000 000
4. Page P Blakemore
5. Alloway Heirs 1
6. Grandview
7. Washington, OH
8. 17.0 million cubic feet
9. January 2, 1980
10.

1. 80–11480/08047
2. 34–167–24690–0014
3. 103 000 000
4. Page P Blakemore
5. Mata Adamson 1
6. Grandview
7. Washington, OH
8. 23.0 million cubic feet
9. January 2, 1980
10.

1. 80–11481/08049
2. 34–167–25046–0014
3. 103 000 000
4. Page P Blakemore
5. Fredrick Miller 1–C
6. Grandview
7. Washington, OH
8. 24.0 million cubic feet
9. January 2, 1980
10.

1. 80–11482/08050
2. 34–167–25039–0014
3. 103 000 000
4. Page P Blakemore
5. Elva Marshall 1
6. Grandview
7. Washington, OH
8. 26.0 million cubic feet
9. January 2, 1980
10.

1. 80–11483/08052
2. 34–167–24843–0014
3. 103 000 000
4. Page P Blakemore
5. John Schwartz #2
6. Liberty
7. Washington, OH
8. 28.0 million cubic feet
9. January 2, 1980
10.

1. 80–11484/08053
2. 34–127–24344–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Cenci #2 80210–2
6.
7. Perry, OH
8. 14.6 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11485/08054
2. 34–073–22172–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. F Graham #5 80221–5
6.
7. Hocking, OH
8. 7.3 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11486/08055
2. 34–127–24113–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. F Taylor #4–T–1 80200–4
6.
7. Perry, OH
8. 14.6 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11487/08056
2. 34–127–24359–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. A Mohler #8 80212–8
6.
7. Perry, OH
8. 3.7 million cubic feet
9. January 2, 1980
10. Paramount Transmission Corp

1. 80–11488/08051
2. 34–073–22171–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. J Dougherty #9 80223–9
6.
7. Hocking, OH
8. 11.0 million cubic feet
9. January 2, 1980
10. Paramount Transmission Corp

1. 80–11489/08058
2. 34–009–21966–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Poston #5 68476–5
6.
7. Athens, OH
8. 36.5 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11490/08059
2. 34–127–24334–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Bradshaw-Starner #4 80202–4
6.
7. Perry, OH
8. 7.7 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11491/08060
2. 34–127–24356–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Taylor #3–T–5 80206–3
6.
7. Perry, OH
8. 16.4 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11492/08061
2. 34–127–24357–0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. G Taylor #2 80214–2
6.
7. Perry, OH
8. 8.4 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission Corp

1. 80–11493/08062
2. 34–155–21316–0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. Swartz #1

6.
7. Trumbull, OH
8. 14.4 million cubic feet
9. January 2, 1980
10. East Ohio Gas Co.
1. 80–11494/08063
2. 34–155–21297–0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. Thomas Unit #3
6.
7. Trumbull, OH
8. 32.4 million cubic feet
9. January 2, 1980
10. East Ohio Gas Co.
1. 80–11495/08064
2. 34–155–21277–0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. Wallace #1
6.
7. Trumbull, OH
8. 54.0 million cubic feet
9. January 2, 1980
10. East Ohio Gas Co.
1. 80–11496/08065
2. 34–155–21301–0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. Bielobockie # 3
6.
7. Trumbull, OH
8. 21.6 million cubic feet
9. January 2, 1980
10. Columbia Gas Transmission
1. 80–11497/08066
2. 34–019–21262–0014
3. 103 000 000
4. Stocker & Sitler, Inc.
5. No. 1 Roy Tressel Lease
6.
7. Carroll, OH
8. 2.5 million cubic feet
9. January 2, 1980
10. M B Operating Co.
1. 80–11498/08067
2. 34–019–21267–0014
3. 103 000 000
4. Stocker & Sitler, Inc.
5. No. 2 G Rinehart Unit
6.
7. Carroll, OH
8. 3.0 million cubic feet
9. January 2, 1980
10. M B Operating Co.
1. 80–11499/08068
2. 34–019–21268–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 G Rinehart Unit
6.
7. Carroll, OH
8. 1.5 million cubic feet
9. January 2, 1980
10. M B Operating Co
1. 80–11500/08069
2. 34–019–21261–0014
3. 103 000 000
4. Stocker & Sitler, Inc.
5. No. 2 Rinehart Unit
6.
7. Carroll, OH
8. 1.0 million cubic feet
9. January 2, 1980
10. M B Operating Co.
1. 80–11501/08070
2. 34–157–23146–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Wenger Unit
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11502/08071
2. 34–157–23160–0014
3. 103 000 000
4. Stocker & Sitler, Inc.
5. No. 1 Max Wenger Lease
6.
7. Tuscarawas, OH
8. 35.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co.
1. 80–11503/08072
2. 34–157–23350–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Wayne Specht et al unit
6.
7. Tuscarawas , OH
8. 30.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11504/08073
2. 34–157–23133–0014
3. 103 000 000
4. Stocker & Sitler, Inc.
5. No. 1 Emerson Specht Unit
6.
7. Tuscarawas, OH
8. 50.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co.
1. 80–11504/08073
2. 34–157–23133–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Emerson Specht Unit
6.
7. Tuscarawas, OH
8. 50.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11505/08074
2. 34–157–23362–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Renner et al unit
6.
7. Tuscarawas, OH
8. 28.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11506/08075
2. 34–157–22690–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No.2 Murray et al unit
6.
7. Tuscarawas, OH
8. 16.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11507/08076
2. 34–157–23128–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Roy J Miller lease
6.
7. Tuscarawas, OH
8. 35.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11508/08077
2. 34–157–23147–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Dummermuth lease
6.
7. Tuscarawas, OH
8. 40.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11509/08078
2. 34–059–22542–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 C A Deli lease
6.
7. Guernsey, OH
8. 15.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11510/08079
2. 34–157–23144–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Dietz Unit
6.
7. Tuscarawas, OH
8. 21.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11511/08080
2. 34–157–23134–0014
3. 103 000 000
4. Stocker & Sitler Inc
5. No 1 Bahler et al unit
6.
7. Tuscarawas, OH
8. 22.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11512/08081
2. 34–127–24410–0014
3. 103 000 000
4. Petro Oil Co
5. Moose Well #2
6.
7. Perry, OH
8. 18.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co
1. 80–11513/08082

2. 34–133–29080–0014
3. 103 000 000
4. Gasearch Inc
5. Fertik #1
6.
7. Portage, OH
8. 100.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co

1. 80–11514/08083
2. 34–155–21120–0014
3. 103 000 000
4. Gasearch Inc
5. Tracy #3
6.
7. Trumbull, OH
8. 100.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co

1. 80–11515/08084
2. 34–155–21129–0014
3. 103 000 000
4. Gasearch Inc
5. Tracy-Latimer #2
6.
7. Trumbull, OH
8. 100.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co

1. 80–11516/08085
2. 34–155–21119–0014
3. 103 000 000
4. Gasearch Inc
5. Tracy-Latimer #1
6.
7. Trumbull, OH
8. 100.0 million cubic feet
9. January 2, 1980
10. The East Ohio Gas Co

1. 80–11517/07888
2. 34–115–00674–0014
3. 108 000 000
4. Cameron Brothers
5. Woodyard #4
6.
7. Morgan, OH
8. .3 million cubic feet
9. January 2, 1980
10. Columbia Gas Trans Corp

1. 80–11518/07857
2. 34–167–24567–0014
3. 103 000 000
4. C W Riggs Inc
5. Buchman-Smith #1
6. Reno Field
7. Washington, OH
8. 14.0 million cubic feet
9. January 2, 1980
10.

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 Captitol 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 within fifteen (15) days of the date of publication of this notice in the **Federal Register.**

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4851 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

[No. 112]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 8, 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.

Kansas 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. 80–04067/K–79–0546
2. 15–093–20428–0000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Miles 1–2
6. Fanoma Council Grove
7. Kearny KS
8. 36.0 million cubic feet
9. October 26, 1979
10.

1. 80–04068/K–79–0547
2. 15–093–00000–0000
3. 108 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Nilson #1
6. Hugoton
7. Kearny KS
8. 12.0 million cubic feet
9. October 26, 1979
10.

1. 80–04069/K–79–0548
2. 15–093–00000–0000
3. 108 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Finkelstein #2
6. Hugoton
7. Kearny KS
8. 13.0 million cubic feet
9. October 26, 1979
10.

1. 80–04070/K–79–0549
2. 15–055–00000–0000
3. 108 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Cook #1
6. Hugoton
7. Finney KS
8. 14.0 million cubic feet
9. October 26, 1979
10.

1. 80–04071/K–79–0395
2. 15–071–20140–0000
3. 103 000 000
4. Argonaut Energy Corporation
5. Weaver Unit #15–1
6. Byerly
7. Greeley KS
8. 72.0 million cubic feet
9. October 26, 1979
10. Kansas-Nebraska Natural Gas Co

1. 80–04072/K–79–0396
2. 15–071–20133–0000
3. 103 000 000
4. Argonaut Energy Corporation
5. Weaver Unit #1
6. Byerly
7. Greeley KS
8. 30.4 million cubic feet
9. October 26, 1979
10. Kansas-Nebraska Natural Gas Co

1. 80–04073/K–79–0397
2. 15–071–20139–0000
3. 103 000 000
4. Argonaut Energy Corporation
5. Vogt Unit #1
6. Byerly
7. Greeley KS
8. 40.5 million cubic feet
9. October 26, 1979
10. Kansas-Nebraska Natural Gas Co

1. 80–04074/K–79–0398
2. 15–129–20308–0000
3. 103 000 000
4. Anadarko Production Company
5. Cherokee B No 2
6. Sant Fe Trail-Cimarron Valley (SW)
7. Morton KS
8. 5.0 million cubic feet
9. October 26, 1979
10. Cimarron-Quinque a Div of APC

1. 80–04075/K–79–0596
2. 15–129–10037–0000
3. 108 000 000
4. Gas Producing Enterprises Inc
5. Dreyer 1–16
6. Greenwood
7. Morton KS
8. 14.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co

1. 80–04076/K–79–0097
2. 15–129–00000–0000
3. 108 000 000
4. Gas Producing Enterprises Inc
5. Welliver 1–20
6. Greenwood
7. Morton KS
8. 17.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co

1. 80–04077/K–79–0598
2. 15–129–10030–0000
3. 108 000 000
4. Gas Producing Enterprises Inc
5. Bailey 1–12
6. Greenwood
7. Morton KS
8. 16.0 million cubic feet
9. October 26, 1979

10. Colorado Interstate Gas Co, Bill Boekhaus
1. 80–04078/K–79–0599
2. 15–129–00000–0000
3. 108 000 000
4. Gas Producing Enterprises Inc
5. Heintz 1–31
6. Greenwood
7. Morton KS
8. 14.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co
1. 80–04079/K–78–0386
2. 15–125–21567–0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Cotner #1–29
6. Jefferson-Sycamore
7. Montgomery KS
8. 14.2 million cubic feet
9. October 26, 1979
10. Union Gas Systems Inc
1. 80–04080/K–79–0383
2. 15–125–21551–0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Clark #1–32
6. Jefferson-Sycamore
7. Montgomery KS
8. 6.9 million cubic feet
9. October 26, 1979
10. Union Gas Systems Inc
1. 80–04081/K–78–0380
2. 15–125–21550–0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Ingmire #1–30
6. Jefferson-Sycamore
7. Montgomery KS
8. 2.2 million cubic feet
9. October 26, 1979
10. Union Gas Systems Inc
1. 80–04082/K–78–378
2. 15–125–20995–0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Ingmire #1–B
6. Jefferson-Sycamore
7. Montgomery KS
8. 5.1 million cubic feet
9. October 26, 1979
10. Union Gas Systems Inc
1. 80–04083/K–78–0377
2. 15–125–21559–0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Kaufman 1–31
6. Jefferson-Sycamore
7. Montgomery KS
8. 8.4 million cubic feet
9. October 26, 1979
10. Union Gas Systems Inc
1. 80–04084/K–78–0375
2. 15–125–21558–0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Ingmire #1–32
6. Jefferson-Sycamore
7. Montgomery KS
8. 5.1 million cubic feet
9. October 26, 1979
10. Union Gas Systems Inc
1. 80–04085/K–79–0366
2. 15–075–21251–0000
3. 103 000 000
4. Par Petroleum Inc
5. Frost #1
6. Bradshaw
7. Hamilton KS
8. 109.5 million cubic feet
9. October 26, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 80–04086/K–79–0629
2. 15–007–00000–0000
3. 108 000 000
4. Mull Drilling Company Inc
5. Zundle #1
6. North Aetna
7. Barber KS
8. 16.4 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co
1. 80–04087/K–79–0705
2. 15–075–20252–0000
3. 103 000 000
4. Amoco Production Company
5. Finlay Gas Unit #1
6. Panoma/Council Grove
7. Hamilton KS
8. 110.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co
1. 80–04088/K–79–0706
2. 15–055–20283–0000
3. 103 000 000
4. Amoco Production Company
5. Reeve Gas Unit #2
6. Hugoton
7. Finney KS
8. 160.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co
1. 80–04089/K–79–0673
2. 15–055–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Emma Wood A #1
6. Hugoton Chase
7. Finney KS
8. 17.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co
1. 80–04090/K–79–0257
2. 15–110–20209–0000
3. 108 000 000
4. Flesher & Assoc Inc
5. Painter No 1
6. McKinney Fincham
7. Meade KS
8. 5.4 million cubic feet
9. October 26, 1979
10. Nothern Natural Gas Co
1. 80–04091/K–79–0303
2. 15–111–20247–0000
3. 103 000 000
4. M C McClure
5. Russell #A1
6.
7. Lyon KS
8. 22.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company
1. 80–04092/K–79–0372
2. 15–055–20319–0000
3. 103 000 000
4. Champlin Petroleum Company
5. Scheer #2
6. Panoma
7. Finney, KS
8. 105.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Company
1. 80–04093/K–79–0373
2. 15–055–20322–0000
3. 103 000 000
4. Champlin Petroleum Company
5. Barker #2
6. Panoma
7. Finney, KS
8. 118.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Company
1. 80–04094/K–79–0374
2. 15–055–20299–0000
3. 103 000 000
4. Champlin Petroleum Company
5. Sinn #2
6. Panoma
7. Finney, KS
8. 69.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Company
1. 80–04095/K–79–0375
2. 15–055–20296–0000
3. 103 000 000
4. Champlin Petroleum Company
5. Jones #2
6. Panoma
7. Finney, KS
8. 100.0 million cubic feet
9. October 26, 1979
10. Kansas-Nebraska Natl Gas Company
1. 80–04096/K–79–0377
2. 15–093–20383–0000
3. 103 000 000
4. Champlin Petroleum Company
5. Bahntge Gas Unit #2
6. Panoma/Council Grove
7. Kearny, KS
8. 77.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co
1. 80–04097/K–79–0377
2. 15–055–20295–0000
3. 103 000 000
4. Champlin Petroleum Company
5. Garden C–9
6. Panoma
7. Finney, KS
8. 18.0 million cubic feet
9. October 26, 1979
10. Kansas-Nebraska Natl Gas Co
1. 80–04098/K–79–0451
2. 15–055–20212–0000
3. 108 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Webster A #2
6. Hugoton
7. Kearny, KS
8. 7.0 million cubic feet
9. October 26, 1979
10.
1. 80–04099/K–79–0450
2. 15–093–00000–0000
3. 108 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Evans #1
6. Hugoton
7. Kearny, KS
8. 13.0 million cubic feet
9. October 26, 1979
10.
1. 80–04100/K–79–0449
2. 15–075–20031–0000

3. 108 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Boltz #1
6. Bradshaw
7. Hamilton, KS
8. 14.0 million cubic feet
9. October 26, 1979
10.

1. 80–04101/K–79–0258
2. 15–075–20215–0000
3. 103 000 000
4. Wayman W Buchanan
5. Heger No 1
6. Bradshaw
7. Hamilton, KS
8. 91.3 million cubic feet
9. October 26, 1979
10. Kansas Nebraska Natural Gas Co Inc

1. 80–04102/K–79–0273
2. 15–071–20145–0000
3. 103 000 000
4. Wayman W Buchanan
5. Hoppe No 1
6. North Tribune
7. Greeley, KS
8. 109.5 million cubic feet
9. October 26, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80–04103/K–79–0277
2. 15–189–20420–0000
3. 103 000 000
4. Anadarko Production Company
5. Smith N–1
6. Gentzler
7. Stevens, KS
8. 180.0 million cubic feet
9. October 26, 1979
10. Panhandle Eastern Pipe Line Co

1. 80–04104/K–79–0708
2. 15–175–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Becker Gas Unit D #1
6. Hugoton Chase
7. Seward, KS
8. .0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80–04105/K–79–00709
2. 15–187–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Bennett Gas Unit #1
6. Hugoton Chase
7. Stanton, KS
8. 12.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04106/K–79–0710
2. 15–093–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Beatty May F #1
6. Hugoton Chase
7. Kearney, KS
8. 9.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80–04107/K–79–0712
2. 15–093–20387–0000
3. 103 000 000
4. Amoco Production Company
5. Trice Gas Unit #2
6. Panoma/Council Grove
7. Kearny, KS
8. 105.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04108/K–79–0713
2. 15–187–20258–0000
3. 103 000 000
4. Amoco Production Company
5. Heitzman Gas Unit #3
6. Panoma/Council Grove
7. Stanton, KS
8. 90.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04109/K–79–0714
2. 15–129–20328–0000
3. 103 000 000
4. Amoco Production Company
5. Johnson Gas Unit B #2
6. Panoma/Council Grove
7. Morton, KS
8. 170.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04110/K–79–0715
2. 15–093–20424–0000
3. 103 000 000
4. Amoco Production Company
5. Blanche E Haag #2
6. Panoma/Council Grove
7. Kearny, KS
8. 143.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04111/K–79–0711
2. 15–129–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Dean Gas Unit #1
6. Hugoton Chase
7. Morton, KS
8. .0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04112/K–79–0719
2. 15–187–20266–0000
3. 103 000 000
4. Amoco Production Company
5. Collingswood Gas Unit F #2
6. Panoma/Council Grove
7. Stanton, KS
8. 100.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04113/K–79–0720
2. 15–093–20395–0000
3. 103 000 000
4. Amoco Production Company
5. Forst Gas Unit #2
6. Panoma/Council
7. Kearny, KS
8. 164.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04114/K–79–0721
2. 15–093–20522–0000
3. 103 000 000
4. Amoco Production Company
5. Foster Gas Unit A #2
6. Panoma/Council Grove
7. Kearny, KS
8. 160.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04115/K–79–0722
2. 15–093–20399–0000
3. 103 000 000
4. Amoco Production Company
5. Faris Gas Unit #2
6. Panoma/Council Grove
7. Kearny, KS
8. 73.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04116/K–79–0723
2. 15–075–20201–0000
3. 103 000 000
4. Amoco Production Company
5. R M Englert Unit #1
6. Panoma/Council Grove
7. Hamilton, KS
8. 100.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co

1. 80–04117/K–79–0704
2. 15–075–20252–0000
3. 103 000 000
4. Amoco Production Company
5. Finlay Gas Unit #2
6. Hugoton
7. Hamilton, KS
8. .0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co

1. 80–04118/K–79–0703
2. 15–093–20419–0000
3. 103 000 000
4. Amoco Production Company
5. Graber Gas Unit #2
6. Panoma/Council Grove
7. Kearny, KS
8. 176.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80–04119/K–79–0702
2. 15–081–10169–0000
3. 108 000 000
4. Amoco Production Company
5. Watkins Gas Unit F #1
6. Lemon West-Marmaton
7. Haskell, KS
8. 9.0 million cubic feet
9. October 26, 1979
10. Kansas Power and Light Co

1. 80–04120/K–79–0701
2. 15–055–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Russell Gas Unit E #1
6. Hugoton Chase
7. Finney, KS
8. 16.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04121/K–79–0700
2. 15–093–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Rohlman Gas Unit B#1
6. Hugoton Chase
7. Kearny, KS
8. 7.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04122/K–79–0697
2. 15–093–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Ross Gas Unit #1
6. Hugoton Chase

7. Kearny KS
8. 8.0 million cubic feet
9. October 26, 1979
10. Cities Services Gas Co

1. 80-04123/K-79-0696
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Graber Gas Unit #1
6. Hugoton Chase
7. Kearney KS
8. 20.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04124/K-79-0695
2. 15-055-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Crain Gas Unit # 1
6. Hugoton-Chase
7. Finney KS
8. 21.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04125/K-79-0694
2. 15-129-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Dewell Gas Unit B #1
6. Hugoton-Chase
7. Morton KS
8. 12.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04126/K-79-0671
2. 15-93-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Stallman Gas Unit B #1
6. Hugoton Chase
7. Kearny KS
8. 16.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04127/K-79-0409
2. 15-175-20227-0000
3. 108 000 000
4. Energy Reserves Group Inc
5. Stevens Trust #1-V
6. Wildcat
7. Seward KS
8. 8.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80-04128/K-79-688
2. 15-187-20290-0000
3. 103 000 000
4. Amoco Production Company
5. Dimond Gas Unit #2
6. Hugoton
7. Stanton KS
8. 160.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04129/K-29-687
2. 15-187-20255-0000
3. 103 000 000
4. Amoco Production Company
5. Julian Gas Unit B #2
6. Panoma/Council Grove
7. Stanton KS
8. 90.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04130/K-79-686
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Rohlman Gas Unit A #1
6. Hugoton Chase
7. Kearney KS
8. 12.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04131/K-79-685
2. 15-055-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Ramsey Gas Unit #1
6. Hugoton Chase
7. Finney KS
8. 21.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04132/K-79-684
2. 15-175-20316-0000
3. 103 000 000
4. Amoco Production Company
5. Hopkins Gas Unit #2
6. Hugoton
7. Seward KS
8. 75.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04133/K-79-683
2. 15-129-00075-0000
3. 108 000 000
4. Amoco Production Company
5. Bonham Gas Unit B #1
6. Kinsler East Morrow
7. Morton KS
8. 14.0 million cubic feet
9. October 26, 1979
10. Kansas Power and Light Co

1. 80-04134/K-79-682
2. 15-007-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Ballet Ranch A #3
6. Aetna Mississippi
7. Barber KS
8. 10.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04135/K-79-681
2. 15-187-20265-0000
3. 103 000 000
4. Amoco Production Company
5. Lucas Gas Unit "C" #2
6. Panoma-Council Grove
7. Stanton KS
8. 90.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04136/K-79-428
2. 15-185-20606-0000
3. 108 000 000
4. John O Farmer Inc
5. Stewart #2
6. Farmington
7. Stafford KS
8. .0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80-04137/K-79-435
2. 15-145-20523-0000
3. 103 000 000
4. Halliburton Oil Producing Company
5. Schartz No 1-A
6. Zook
7. Pawnee KS
8. 100.0 million cubic feet
9. October 26, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-04138/K-79-434
2. 15-175-00000-0000
3. 108 000 000
4. Amarex Inc
5. #1-7 "Dowdy"
6. Wideawake
7. Seward KS
8. 17.5 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80-04139/K-79-433
2. 15-155-20348-0000
3. 108 000 000
4. Platte Valley Oil Co Inc
5. Morton #1 Gas Well
6. Morton Field
7. Reno Sel 17-245-8W Wks
8. 9.1 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04140/K-79-718
2. 15-129-20327-0000
3. 103 000 000
4. Amoco Production Company
5. Kansas University Gas Unit "C" #3
6. Panoma/Council Grove
7. Morton KS
8. 108.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80-04141/K-79-717
2. 15-187-20256-0000
3. 103 000 000
4. Amoco Production Company
5. Grisell Gas Unit #2
6. Panoma/Council Grove
7. Stanton KS
8. 90.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80-04142/K-79-716
2. 15-093-20394-0000
3. 103 000 000
4. Amoco Production Company
5. Underwood Gas Unit #2
6. Panoma/Council Grove
7. Kearny KS
8. 106.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80-04143/K-79-642
2. 15-175-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Stapleton Gas Unit B #1
6. Hugoton Chase
7. Seward KS
8. 15.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80-04144/K-79-655
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Frank M Finkelstein #1
6. Hugoton-Chase
7. Kearney KS
8. .0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04145/K-79-692

2. 15–187–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Parks Gas Unit A #1
6. Hugoton Chase
7. Stanton KS
8. 20.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04146/K–79–689
2. 15–055–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Holderness Pl #1
6. Hugoton Chase
7. Finney KS
8. 16.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04147/K–79–691
2. 15–093–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Henderson Gas Unit #1
6. Hugoton Chase
7. Kearney KS
8. 13.0 million cubic feet
9. October 26, 1979
10. Cities Services Gas Company

1. 80–04148/K–79–690
2. 15–093–00000–0000
3. 108 000 000
4. Amoco Production Company
5. Heisinger Gas Unit #1
6. Hugoton Chase
7. Kearny KS
8. 20.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80–04149/K–79–586
2. 15–175–00000–0000
3. 108 000 000
4. Cabot Corporation
5. McGee #1
6. Kansas-Hugoton
7. Seward KS
8. 15.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80–04150/K–79–591
2. 15–055–20282–0000
3. 103 000 000
4. Marden Producing Company
5. H Weldon #1–10
6. Hugoton
7. Finney KS
8. 92.4 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80–04151/K–79–592
2. 15–055–20288–0000
3. 103 000 000
4. Marden Producing Company
5. N Weldon #1–11
6. Hugoton
7. Finney KS
8. 92.4 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80–04152/K–79–593
2. 15–055–20289–0000
3. 103–000–000
4. Marden Producing Company
5. Cummings #1–2 Gas Unit
6. Hugoton
7. Finney, KS
8. 43.7 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80–04153/K–79–308
2. 15–093–20397–0000
3. 103–000–000
4. Forest Oil Corporation
5. Loucks #4 No 15–093–20397
6. Hugoton (Panoma)
7. Kearny, KS
8. 65.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co

1. 80–04154/K–79–307
2. 15–093–00000–0000
3. 103–000–000
4. Forest Oil Corporation
5. Loucks #5
6. Hugoton (Panoma)
7. Kearny, KS
8. 53.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co

1. 80–04155/K–79–306
2. 15–093–00000–0000
3. 103–000–000
4. Forest Oil Corporation
5. Loucks #6
6. Hugoton (Panoma)
7. Kearny, KS
8. 53.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Co

1. 80–04156/K–79–315
2. 15–189–20369–0000
3. 102–000–000
4. Anadarko Production Co
5. Davis C No 2
6. Gentzler
7. Stevens, KS
8. 72.0 million cubic feet
9. October 26, 1979
10. Panhandle Eastern Pipeline Co

1. 80–04157/K–79–313
2. 15–155–20499–0000
3. 102–000–000
4. Anadarko Production Co
5. Royce A No 1
6. Langdon
7. Reno, KS
8. 24.0 million cubic feet
9. October 26, 1979
10. Panhandle Eastern Pipeline Co

1. 80–04158/K–79–312
2. 15–155–20430–0000
3. 102–000–000
4. Anadarko Production Co
5. Archie A No 1
6. Langdon
7. Reno, KS
8. 24.0 million cubic feet
9. October 26, 1979
10. Panhandle Eastern Pipeline Co

1. 80–04159/K–79–310
2. 15–155–20510–0000
3. 102–000–000
4. Anadarko Production Co
5. Mauck A No 1
6. Langdon
7. Reno, KS
8. 48.0 million cubic feet
9. October 26, 1979
10. Panhandle Eastern Pipeline Co

1. 80–04160/K–79–309
2. 15–155–20517–0000
3. 102–000–000
4. Anadarko Production Co
5. E Maxwell A No 1
6. Langdon
7. Reno, KS
8. 60.0 million cubic feet
9. October 26, 1979
10. Panhandle Eastern Pipeline Co

1. 80–04161/K–79–448
2. 15–093–00000–0000
3. 108–000–000
4. Kansas-Nebraska Natural Gas Co Inc
5. Palmer #1
6. Hugoton
7. Kearny, KS
8. 10.0 million cubic feet
9. October 26, 1979
10.

1. 80–04162/K–79–447
2. 15–055–00000–0000
3. 108–000–000
4. Kansas-Nebraska Natural Gas Co Inc
5. Garden #1
6. Hugoton
7. Finney, KS
8. 11.0 million cubic feet
9. October 26, 1979
10.

1. 80–04163/K–79–446
2. 15–075–20027–0000
3. 108–000–000
4. Kansas-Nebraska Natural Gas Co Inc
5. Staatz #1
6. Bradshaw
7. Hamilton, KS
8. 9.7 million cubic feet
9. October 26, 1979
10.

1. 80–04164/K–79–304
2. 15–025–20232–0000
3. 103–000–000
4. Byron E Hummon Jr
5. Bouziden #2
6. Harper Ranch North
7. Clark, KS
8. 180.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80–04165/K–79–365
2. 15–175–20367–0000
3. 103–000–000
4. Par Petroleum Inc
5. Boles #1
6. Wideawake
7. Seward, KS
8. 109.5 million cubic feet
9. October 26, 1979
10. Anadarko Prod Co

1. 80–04166/K–79–367
2. 15–075–20250–0000
3. 103–000–000
4. Par Petroleum Inc
5. Huser #1
6. Bradshaw
7. Hamilton, KS
8. 109.5 million cubic feet
9. October 26, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80–04167/K–79–371
2. 15–175–20216–0000
3. 108–000–000
4. Leben Oil Corp
5. McGee Unit #1
6. Shuck

7. Seward, KS
8. 18.0 million cubic feet
9. October 26, 1979
10. Panhandle Eastern Pipeline

1. 80-04168/K-79-550
2. 15-093-00000-0000
3. 108-000-000
4. Kansas-Nebraska Natural Gas Co Inc
5. Miles #3
6. Hugoton
7. Kearny, KS
8. 12.0 million cubic feet
9. October 26, 1979
10.

1. 80-04169/K-79-551
2. 15-093-00000-0000
3. 108-000-000
4. Kansas-Nebraska Natural Gas Co Inc
5. Beymer #1
6. Hugoton
7. Kearny, KS
8. 13.0 million cubic feet
9. October 26, 1979
10.

1. 80-04170/K-79-552
2. 15-075-00000-0000
3. 108-000-000
4. Kansas-Nebraska Natural Gas Co Inc
5. Bradshaw #2
6. Bradshaw
7. Hamilton, KS
8. 11.0 million cubic feet
9. October 26, 1979
10.

1. 80-04171/K-79-501
2. 15-047-20367-0000
3. 103-000-000
4. Wheeler Oil Company
5. Bertha Welsch #1
6. McClanaham East
7. Edwards, KS
8. 54.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80-04172/K-79-364
2. 15-097-20497-2000
3. 102-000-000
4. Wenert Trich
5. Hopper #1
6. Wildcat
7. Kiowa, KS
8. 100.0 million cubic feet
9. October 26, 1979
10. Panhandle Eastern Pipeline Co

1. 80-04173/K-79-363
2. 15-151-20514-0000
3. 102-000-000
4. Wenert Trich
5. Gross #1
6. Wildcat
7. Pratt, KS
8. 100.0 million cubic feet
9. October 26, 1979
10. Panhandle Eastern Pipeline Co

1. 80-04174/K-79-421
2. 15-191-20756-0000
3. 103-000-000
4. Texas Oil & Gas Corp
5. Miller "L" #1
6. Love Three
7. Sumner, KS
8. 2372.5 million cubic feet
9. October 26, 1979
10.

1. 80-04175/K-79-420
2. 15-007-20660-0000
3. 103-000-000
4. Texas Oil & Gas Corp
5. Rusk "C" #1
6. Perry Ranch Extension
7. Barber, KS
8. 4380.0 million cubic feet
9. October 26, 1979
10.

1. 80-04176/K-79-412
2. 15-191-20832-0000
3. 102-000-000
4. Texas Oil & Gas Corp
5. Hirth #1
6. Latta-SW
7. Sumner, KS
8. 7300.0 million cubic feet
9. October 26, 1979
10.

1. 80-04177/K-79-457
2. 15-175-20331-0000
3. 103-000-000
4. Anadarko Production Company
5. Baughman B No 1
6. Shuck
7. Seward, KS
8. 511.0 million cubic feet
9. October 26, 1979
10. Cimarron-Quinque A Div of APC

1. 80-04178/K-79-625
2. 15-187-20292-0000
3. 103-000-000
4. Tideway Oil Programs Inc
5. Nicholas Unit #1-8
6. Hugoton
7. Stanton, KS
8. 50.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Company

1. 80-04179/K-79-626
2. 15-187-20225-0000
3. 103-000-000
4. Tideway Oil Programs Inc
5. S J Parks #1-31
6. Hugoton
7. Stanton, KS
8. 18.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80-04180/K-79-627
2. 15-187-20229-0000
3. 103-000-000
4. Tideway Oil Programs Inc
5. Barber Farms No 1-20
6. Hugoton
7. Stanton, KS
8. 10.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80-04181/K-79-628
2. 15-187-20230-0000
3. 103-000-000
4. Tideway Oil Programs Inc
5. Rollie Jack No 1-9
6. Hugoton
7. Stanton, KS
8. 8.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company

1. 80-04182/K-79-630
2. 15-093-20589-0000
3. 103 000 000
4. Mobil Oil Corporation
5. C A Loucks Unit Well #2
6. Panoma
7. Kearny KS
8. 70.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04183/K-79-611
2. 15-189-20374-0000
3. 103 000 000
4. Texaco Inc
5. W H Emrie No 2
6. Panoma
7. Stevens KS
8. 72.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80-04184/K-79-612
2. 15-129-20303-0000
3. 103 000 000
4. Texaco Inc
5. C L Hinshaw No 2
6. Panoma
7. Morton KS
8. 72.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Co

1. 80-04185/K-79-613
2. 15-189-20373-0000
3. 103 000 000
4. Texaco Inc
5. J T Newby No 2
6. Panoma
7. Stevens KS
8. 72.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80-04186/K-79-614
2. 15-183-20372-0000
3. 103 000 000
4. Texaco Inc
5. M L Reynolds No 2
6. Panoma
7. Stevens KS
8. 72.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80-04187/K-79-615
2. 15-189-20424-0000
3. 103 000 000
4. Texaco Inc
5. Thurow No 2
6. Panoma
7. Stevens KS
8. 72.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company

1. 80-04188/K-79-631
2. 15-093-20588-0000
3. 103 000 000
4. Mobil Oil Corporation
5. H C Wear Unit Well #2
6. Panoma
7. Kearny KS
8. 70.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co

1. 80-04189/K-79-632
2. 15-159-20769-0000
3. 103 000 000
4. Continental Oil Company
5. L G Kimple No 11
6. Geneseo
7. Rice KS
8. 20.0 million cubic feet
9. October 26, 1979
10. Car-Ren Inc

1. 80-04190/K-79-635

2. 15–189–00000–0000
3. 103 000 000
4. Anadarko Production Company
5. Spikes C No 1
6. Gentzler
7. Stevens KS
8. 35.0 million cubic feet
9. October 26, 1979
10. Cimarron-Quinque a div of APC
1. 80–04191/K–79–636
2. 15–189–00000–0000
3. 103 000 000
4. Anadarko Production Company
5. Bane H No 1
6. Gentzler
7. Stevens KS
8. 180.0 million cubic feet
9. October 26, 1979
10. Cimarron-Quinque a div of APC
1. 80–04192/K–79–616
2. 15–189–20425–0000
3. 103 000 000
4. Texaco Inc
5. Vansickle No 2
6. Panoma
7. Stevens KS
8. 72.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company
1. 80–04193/K–79–617
2. 15–187–20226–0000
3. 103 000 000
4. Tideway Oil Programs Inc
5. W C Lynn No 1–29
6. Hugoton
7. Stanton KS
8. 8.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas
1. 80–04194/K–79–618
2. 15–187–20232–0000
3. 103 000 000
4. Tideway Oil Programs Inc
5. J J Johns No 1–30
6. Hugoton
7. Stanton KS
8. 3.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas
1. 80–04195/K–79–619
2. 15–187–20251–0000
3. 103 000 000
4. Tideway Oil Programs Inc
5. Julian Farms No 1–10
6. Hugoton
7. Stanton KS
8. 23.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Company
1. 80–04196/K–79–620
2. 15–129–20301–0000
3. 103 000 000
4. Tideway Oil Programs Inc
5. L C Northcutt #1–6
6. Hugoton
7. Morton KS
8. 45.0 million cubic feet
9. October 26, 1979
10. Cities Service Gas Co
1. 80–04197/K–79–621
2. 15–075–20195–0000
3. 103 000 000
4. Tideway Oil Programs Inc
5. Barney Akers No 1–18
6. Hugoton
7. Hamilton KS
8. 39.0 million cubic feet
9. October 26, 1979
10. Colorado Interstate Gas Company
1. 80–04198/K–79–622
2. 15–187–20252–0000
3. 103 000 000
4. Tideway Oil Programs Inc
5. Saunders No 1–4
6. Hugoton
7. Stanton KS
8. 15.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company
1. 80–04199/K–79–623
2. 15–187–20250–0000
3. 103 000 000
4. Tideway Oil Programs Inc
5. L H Brown No 1–17
6. Hugoton
7. Stanton KS
8. 10.0 million cubic feet
9. October 26, 1979
10. Northern Natural Gas Company
1. 80–04200/K–79–624
2. 15–129–20344–0000
3. 103 000 000
4. Tideway Oil Programs Inc
5. B D Fallon #1–8
6. Hugoton
7. Morton KS
8. 12.0 million cubic feet
9. October 26, 1979
10.

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 within fifteen (15) days of the date of publication of this notice in the **Federal Register.**

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4843 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

Action on Consent Order With Getty Oil Co.

AGENCY: Department of Energy (DOE).

ACTION: Adoption of Proposed Consent Order as Final.

SUMMARY: The Office of the Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199J that it has adopted the consent order with Getty Oil Company, executed on December 4, 1979 and published for comment in 44 FR 71453 on December 11, 1979. The consent order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, with the exceptions noted below, for the period August 19, 1973 through December 31, 1978. To remedy any overcharges that may have occurred during the period, Getty Oil Company agrees to $75 million in remedies.

As required by the regulation cited above, OSC has received comments on the consent order for a period of not less than 30 days following publication of the notice cited above. One comment was received. OSC considered that comment and determined that the consent order should be made final without modification. The consent order is effective as an order of the Department of Energy (DOE) on February 14, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Wolf, Deputy Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, 202–633–9165.

Copies of the consent order may be received free of charge by written request to: Getty Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Rm. 3109, Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room GB–145.

SUPPLEMENTARY INFORMATION:

The Consent Order

On December 11, 1979, OSC published notice in the **Federal Register** at page 71453, announcing the execution of a consent order between Getty Oil Company (Getty) and OSC. In compliance with DOE regulations, that notice, and a press release issued on December 5, 1979, briefly summarized the consent order and the facts behind it. The notice and press release also gave instructions for obtaining copies of the consent order.

The consent order can be summarized as follows:

1. The consent order marks the conclusion of OSC's audit of Getty's compliance with the mandatory Petroleum Price and Allocation Regulations for the period August 19, 1973 through December 31, 1978. All but three matters were resolved by the consent order: Crude oil issues associated with the Kern River field as set forth in a Notice of Probable

Violation, Case No. 940R00054, June 27, 1978; claims against Getty described in *Getty Oil Company*, 1 DOE ¶80,102 (October 7, 1977), and *Getty Oil Company v. Department of Energy*, Civ. No. 77–434 (D. Del.); and issues concerning costs reported by Getty for interaffiliate purchases of natural gas liquids or natural gas liquid products.

2. The compliance issues were resolved by Getty's agreement of $75 million in remedies. These remedies consist of payment of $25 million into an escrow fund to be used to mitigate energy costs of economically disadvantaged persons and a reduction of $50 million in Getty's banks of gasoline and propane costs.

3. Getty will deposit $25 million in an escrow account with National Savings and Trust Company, Washington, D.C., as escrow agent. Getty will not have any claim on the escrow fund or any right to participate in its withdrawal, distribution or investment. DOE will determine how to distribute the funds.

4. Getty will reduce its banks of gasoline and propane costs by $50 million and carry this reduction forward to all subsequent months. Normally, banked costs may be passed through to purchasers in future prices; Getty is effectively foreclosed from passing through this $50 million as a result of this consent order.

Comments Received

The one comment OSC received on this consent order came from the Minority Bank Development Program recommending that $10 million of the escrow fund be deposited in minority banks. Among the reasons offered by the Program to support its recommendation was that the funds could be used to provide loans to the depository banks' customers; thus contributing to increased economic activity and employment in the banks' communities.

While OSC agrees that depositing public funds in minority banks often furthers important public policies such as these, it does not believe that depositing part of the escrow fund in minority banks would have the effect envisioned by the Program. The escrow fund is intended to alleviate the energy costs of economically disadvantaged persons this winter. Consequently, the funds are intended to be disbursed quickly and will not be available to serve as a source of loans to the customers of minority banks. Because the principal purpose advanced for depositing some funds with minority banks is not likely to occur due to the short time the funds will be on deposit, there is no significant benefit in adopting the Program's recommendation.

Having considered this comment, OSC has not found any reason to modify or rescind the proposed consent order. Accordingly, OSC has determined that the proposed consent order with Getty should be made final, effective February 14, 1980.

Issued in Washington, D.C., February 7, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80–4688 Filed 2–13–80; 8:45 am]

BILLING CODE 6450–01–M

Office of Special Counsel for Compliance

Consent Order With Exxon Corp.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

SUMMARY: Pursuant to 10 CFR 205.199J, the Office of Special Counsel of the Department of Energy hereby gives Notice of a Consent Order which was executed between Exxon Corporation (Exxon) and the Office of Special Counsel for Compliance on February 1, 1980. In accordance with that section, the Office of Special Counsel (OSC) will receive comments with respect to this Consent Order. Although the Consent Order has been signed and conditionally accepted by the OSC, the OSC may, after consideration of comments received, withdraw its acceptance of the Consent Order and, if appropriate, attempt to negotiate an alternative Consent Order.

The Consent Order

Exxon is a refiner subject to the cost calculations and transfer pricing rules of 10 CFR 212.83 and 212.84. These rules are used to determine, among other things, the proper measurement of costs of crude oil imported by a firm through its foreign affiliates.

In April 1977, the Federal Energy Administration (FEA) issued a Notice of Proposed Disallowance to Exxon alleging that the firm had overstated its costs with respect to interaffiliate imported crude oil transactions by $5.6 million for the period October 1973 through May 1975. Subsequently, in a Modification of the Notice issued in August 1978, the amount was reduced to $1.1 million in recognition of miscoded information and after a revision to Maximum and Representative Prices for Reference Crude Oil VE–235 as published in 43 FR 34186 (August 3, 1978). Additional analyses of DOE data and subsequent communications with Exxon disclosed that a further adjustment for a Venezuelan and an Abu Dhabi crude oil was necessary, thereby correcting the asserted amount of disallowance to $610 thousand.

In December 1977, the Office of Special Counsel for Compliance was created within the Department of Energy. In February 1978, the responsibility for the transfer pricing program was transferred from the Office of Enforcement, Economic Regulatory Administration, to the OSC. In the Consent Order, the OSC and Exxon have reached agreement to settle the asserted $610 thousand amount of disallowance by a $377,200.00 current reduction in costs recoverable in gasoline prices.

In consideration of Exxon's agreement to the terms and conditions of the Consent Order, and following examination of the arguments raised by Exxon, and due to the time and expense which could be involved in the litigation of the issues raised, the Office of Special Counsel believes it to be fair, reasonable and in the best interest of the United States to conclude these proceedings through a Consent Order as negotiated and described herein.

In resolution of the issues raised by application of the transfer pricing program, and by Exxon in its responses to the Notices of Proposed Disallowance, the Office of Special Counsel and Exxon executed a Consent Order on February 1, 1980, the significant terms of which are that:

1. Exxon agrees to currently reduce its increased costs of crude oil allocated to gasoline by $377,200.00.

2. The provisions of 10 CFR 205.199J, including the publication of this notice, are applicable to the Consent Order.

Submission of Written Comments

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to: Marcell Anthony, Assistant Solicitor, Office of Special Counsel, Department of Energy, 12th and Pennsylvania Avenue, NW., Room 1309, Washington, D.C. 20461, phone: (202) 633–8292.

Copies of the Consent Order may be received free of charge by written request to the same address. Copies are also available for public inspection in the Freedom of Information Reading Room located at: Department of Energy, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Comments should be identified on the outside of the envelope and documents submitted with the designation

"Comments on Exxon Transfer Pricing Consent Order." All comments received by 4:30 p.m. EDT on March 16, 1980, will be considered by the Office of Special Counsel in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., February 1, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-4687 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1414-2; 80P-16]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a one-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to discuss the hazard to avian species from the use of soil-incorporated granulated pesticides. The meeting will be open to the public.

DATE: Wednesday, March 5, 1980, from 9:00 a.m. to 5:00 p.m.

ADDRESS: The meeting will be held at: Hall of States—A Room, Skyline Inn, South Capitol and Eye Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 22202. 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The agenda for this meeting is:

1. Agency presentation on the hazard to avian species from the use of soil-incorporated granular pesticides;

2. Completion of any unfinished business from previous Panel meetings; and

3. In addition, the agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Information relative to item 1 may be obtained by contacting Mr. Richard Balcomb, Hazard Evaluation Division (TS-769), Telephone: 703-557-7725.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm that the Panel will review all of the agenda items.

Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than February 29, 1980.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is Wednesday, Thursday, and Friday, March 26, 27, and 28, 1980 in Washington, D.C.

(Sec. 25(d), 92 Stat. 819, as amended, (7 U.S.C. 136); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.).)

Dated: February 8, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-4711 Filed 2-13-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1413-5]

Science Advisory Board; Technology Assessment and Pollution Control Advisory Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that a two-day meeting of the Technology Assessment and Pollution Control Committee of the Science Advisory Board will be held at the EPA Headquarters in the District of Columbia, 401 M Street, Southwest. The meeting dates are Wednesday and Thursday, March 5-6, 1980. The meeting will begin at 9:00 a.m. in the Administrator's conference room (Room 1101, West Tower).

This meeting is one of the three or four routinely scheduled yearly meetings of the full Committee. The primary purpose of this meeting is to review the results or status of several recent or ongoing studies of the Committee. These studies include topics concerning toxic and hazardous waste, an indicator pollutant concept, and industrial incentives for control technology utilization and development. In addition to the above, new members to the Committee will be installed and future TAPCAC activities discussed.

This meeting is open to the public. Any person wishing to attend or to know further about this meeting may contact TAPCAC's Executive Secretary, William N. McCarthy, Jr., Acting, (202) 472-9459.

Helene N. Guttman,

Acting Staff Director, Science Advisory Board.

February 8, 1980.

[FR Doc. 80-4710 Filed 2-13-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1413-8]

Regulation of Large Coal-Fired Boilers for SO_2 Emissions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The purposes of this Notice is to advise the public that EPA has initiated a review of policies and procedures for regulating large coal-fired boilers and to invite comment on the results of that review. Included are preliminary positions on guidelines for meterological dispersion models; guidelines on regulatory development with emphasis on averaging times; the use of a statistical technique for evaluating variable emissions; and accelerated installation of in-stack monitors and their use in future SIP modifications as the required compliance method. Some of the anticipated changes will involve rulemaking; others will involve changes to procedural guidelines or policy announcements. There will be opportunity for public comments on each. Involvement by many interests is encouraged because of the potential impacts of these changes on acid precipitation, visibility, coal utilization and the cost of power production. This Notice is intended to provide an overview of the program since its implementation will require a number of separate administrative actions.

BACKGROUND: The United States Environmental Protection Agency has initiated a program to revise the rules and policies applicable to controlling sulfur emissions from coal-fired power plants. Information developed over the past several years has made it

increasingly apparent that historical methods of estimating impacts and establishing emission limits for power plants are not adequately defined and are not being applied consistently. In addition, current emission monitoring and enforcement techniques have been found to be cumbersome and ineffective.

The Clean Air Act provides for the establishment and attainment of ambient standards which will provide an equal measure of health and welfare protection to residents of every State. The standards for sulfur dioxide require that ambient concentrations, averaged annually and over 24 hour and 3 hour periods, not exceed specified levels. Assuring attainment of the standards in the vicinity of power requires an understanding of the ground level concentrations expected to result from the plant's emissions under the meterological conditions observed in the affected area. Estimates of ground level concentrations are developed through the use of mathematical dispersion models which predict concentrations associated with given emission rates and meterological conditions. These predictions are used to develop emission limitations which will protect against violations of the standard.

All mathematical simulations models, whether they are of industrial processes, economic systems or phyiscal events, contain estimates and assumptions which can only approximate real world conditions. Similarly, translation of information generated by models into management decisions or emission limits requires a series of policies and procedures to reduce the possibility of undesired consequences which might result from errors in predictions. In the development of emission limits for power plants, regulatory policies must provide for adequate protection of the ambient standards despite uncertainty in predicted air quality impacts.

A major area of inconsistency in the application of model results to power plant emission limits has been the treatment of natural variations in the sulfur content of coal. Coal, even from the same mine, will vary in sulfur content, from day to day. Sulfur dioxide emissions will vary with changes in sulfur content, making daily air quality impacts difficult to estimate. Sulfur varability was not well understood by either industry or the government when initial rules were developed by the States. As a result, it was generally ignored when most emissions limits were established. This has caused substantial problems in the interpretation and enforcement of existing rules as well as in the transition to the more explicit regulations now being required by the Agency.

Another problem area involves the development of emission limits which protect the standard given the fact that model results are only estimates and may either underpredict or overpredict actual concentrations. An underprediction could result in emission limits that do not provide the appropriate degree of assurance that ambient standards will be protected.

Over the past ten years ground level concentrations for SO_2 have been reduced in many areas and most of the remaining problems are associated with power plants and smelters which have not come into compliance with existing emission limits. The modifications being proposed by the Agency are necessary to insure that the remaining sources can be brought into compliance through effective enforcement; to provide a clear policy for evaluating new sources; and to resolve issues which are delaying the development of State rules for those sources requiring additional control.

While the current program has substantially reduced the problems of localized effects of sulfur oxides, there is a large and possibly more significant threat to the environmental posed by emissions of sulfur compounds to the atmosphere. Acid precipitation resulting from region-wide emissions of sulfur and nitrogen compounds threatens our lakes and forests and those of Canada. Since the Clean Air Act was designed to deal primarily with ground level concentrations in the vicinity of individual sources, it offers only limited tools to deal with broad regional problems such as acid rain.

A reduction in acid precipitation will require reductions in emissions over broad geographic regions. While there are a number of alternatives for accomplishing such a reduction, the most promising near-term measure appears to be increased cleaning of high sulfur coal, through coals washing techniques. A program to require coal cleaning of high sulfur coals has been advocated by one State (Ohio) and EPA believes that similar actions in other States would provide a real and significant benefit. Therefore, the policies to be proposed by the Agency will encourage States and sources to increase the use of washed coal. While the alternatives considered by the Agency in the review of policies and procedures for coal-fired boilers will move toward reductions in total emissions of sulfur oxides from current levels, they cannot be expected to reduce atmospheric loadings sufficiently to solve the acid precipitation problem. Significant reduction in regional emission of SO_2 will require legislative changes.

Proposed Actions

The actions contemplated by the Agency include revisions to: (1) Enforcement programs, with emphasis on emission data and methods of determining compliance.

(2) Guidelines for dispersion modeling.

(3) Guidelines for developing emission limits for State Implementation Plans (SIPs) with emphasis on averaging times, variability in SO_2 emissions, and certainties in modeling estimates.

ENFORCEMENT DATA: Effective enforcement of regulations for sources with varying emissions, such as coal-fired boilers, depends strongly on the routine availability of emission data. On August 8, 1979, EPA published an Advance Notice of Proposed Rulemaking "Emission Monitoring of Stationary Sources" (40 CFR Parts 51 and 52, Vol. 44, No. 154). The schedule published for promulgating regulations requiring the installation of continuous in-stack monitors will be accelerated for coal-fired boilers and broadened to include periodic coal sampling or more frequent stack sampling for some units in order to provide information necessary to ensure compliance with existing emission limits.

In addition, it is apparent that the manual stack test methods usually required in existing regulations generally do not provide adequate data for effective enforcement. Therefore, the Agency will propose a change to Part 51 of 40 CFR requiring that continuous in-stack monitoring or periodic coal sampling be the only acceptable compliance method for SO_2 in all future SIP modifications involving large coal-fired boilers.

MODELING GUIDELINES: Dispersion models are used to predict the ground level air quality impacts of power plant emissions. While the models used are consistent in basic design, their application requires a number of assumptions and variety of data about emissions, background concentrations and weather conditions. EPA proposed, took comment on and published in 1978 a report "Guidelines on Air Quality Models" (EPA–450/2/78–027) in order to provide formal guidance on the application of these models. However, this report provides substantial flexibility to the user. The Agency now proposes to tighten this guidance to establish specific data requirements. Included will be a requirement that five years of meteorological data be used to insure representativeness of results, a

requirement that the plant be modeled at the load which would identify the highest ground level concentration, and more specific requirements for identifying critical receptor sites. The combination of these actions should improve the consistency and accuracy of model applications for future regulations.

GUIDELINES FOR DEVELOPMENT OF EMISSION LIMITS: There does now exist a formal set of guidelines for developing regulations from modeling data. This has been an important cause of inconsistency and possibly ambiguity in some existing SIP emission limits for coal-fired boilers. Therefore, a set of guidelines will be proposed early in 1980 to assist States and EPA Regions in setting emission limits.

The most difficult problem to be addressed will be the consideration of coal sulfur variability in the establishment of emission limits. In the past the Agency has advocated an assumption that emissions would be uniform at the maximum coal sulfur content and required that regulations be established to protect against maximum emissions under all weather conditions. A number of States and industries have requested that the Agency review this policy and consider an alternative of allowing longer (30 day) averaging times in emission limits. They argue that the term average better represents actual operating conditions and potential ambient impacts.

While the Agency agrees that coal sulfur variability cannot be ignored, it has been and continues to be unwilling to accept the 30-day average proposals as adequate to demonstrate protection of the ambient standards or as an appropriate form for insuring compliance. Accordingly, the Agency will propose for comment an alternative technique which uses statistical tools to analyze the probabilities of significant air quality impacts under conditions of varying emissions. When combined with appropriate meteorological data, continuous in-stack monitoring and emission limits specification, this technique appears to provide an appropriate mechanism to consider coal sulfur variability.

The statistical model will be proposed as a permissible alternative where the following conditions are met:

a. Five years of meteorological data are employed in the model and worst case load conditions are considered.

b. Compliance is determined through the use of in-stack monitors or daily coal samples.

c. Emission limits are specified at a minimum both for a 24 hour averaging period and a 30-day rolling averaging period.

d. High sulfur coal will be washed to reduce both sulfur content and variability, thereby reducing the potential for short-term exceedances.

The guidelines also will specify selection of an acceptable degree of certainty of attainment for use with the statistical technique and values for sulfur variability if plant-specific data are not available. Policies applicable to emission limits for coal-fired boilers in other situations also will be proposed. These will include smaller urban point sources and plants in complex terrain where only screening-type diffusion models are available for use.

The problem of uncertainty in model predictions also will be addressed and may lend itself to the application of a similar statistical technique. In this case statistical tools would be used to determine the probability that a model has underpredicted ground level concentrations for a given application and that as a result actual concentrations would exceed the standard. While more work has been done to date on the application of statistical techniques to sulfur variability, the Agency's review of modeling and regulatory policies will extend to the problem of possible underpredication and the proposal of appropriate corrective action.

It must be emphasized that this Notice is being published only as general information to illustrate the scope of the review and to present the Agency's rationale and initial conclusions in a comprehensive package. This Notice should not be interpreted as a license to implement any of the changes being discussed. Each will be proposed in a more formal manner, announced or proposed in the **Federal Register** with opportunity for comment and made final as a modification to the appropriate Agency policy, guidelines or regulation. Accordingly, this Notice does not affect EPA's November 7, 1979, proposal to approve emission limitations for two West Virginia power stations, where a statistical analysis of fuel variability was combined with an alternative set of more stringent conditions in determining that a violation of ambient air quality standards was not expected (44 FR 64439).

Comments and Additional Information

The series of possible changes to regulations, guidelines, and policies for evaluating coal-fired boilers outlined in this notice have the potential for widespread impact. These include effect of acid precipitation and on productivity of lakes and forests, visibility, impact of sulfates on public health, ability to utilize coal as an energy source, changes in patterns of coal supply and employment in the mining industry and cost of electricity. Because of this EPA will provide extensive opportunity for review and public comments as each segment of the overall program is proposed and moves toward final decision and implementation.

EPA also welcomes general comment at this time on the concepts and overall program described in this notice. Comments and suggestions should be sent to B. J. Steigerwald, Environmental Protection Agency (MD–10), Research Triangle Park, N.C. 27711. Phone (919) 541–5256.

Dated: February 5, 1980.

Barbara Blum,

Administrator.

[FR Doc. 80–4712 Filed 2–13–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 10 days after publication of this notice in the **Federal Register**. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T–28190–3

Filing Party: Mrs. Jean Rustin, Director of, Traffic, Commerce & Development, Tampa Port Authority, 811 Wynkoop Road, Post Office Box 2192, Tampa, Florida 33601.

Summary: Agreement No. T–2810–3 modifies the basic agreement between the Tampa Port Authority (Tampa) and Edward-Stephen of Tampa, Inc., subleased to Uiterwyk Cold Storage Corp. (Uiterwyk) under F.M.C. Agreement No. T–2811. Basic Agreement No. T–2810 provides for the 25–year lease of land along with preferential berthing rights to an adjacent dock and apron, at the Holland Terminal Area, East Bay, Hookers Point, Tampa, Florida.

Agreement No. T–2810–3, between Tampa and Uiterwyk, is a Supplemental Facilites Lease, whereby Tampa agrees to purchase from Uiterwyk an existing 20,000 sq. ft. refrigerated warehouse and to enlarge it by constructing an additional 28,000 sq. ft. warehouse facility. Tampa agrees to finance the cost of the project with the total price of the transactions not to exceed $396,000 and Uiterwyk agrees to rent both buildings from Tampa. The lease is required to secure financing for this enlargement and improvement to the terminal facility.

Dated: February 11, 1980.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80–4790 Filed 2–13–80; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 80–7]

The Mennen Co. v. Mitsui O.S.K. Lines Ltd.; Filing of Complaint

Notice is given that a complaint filed by The Mennen Company against Mitsui O.S.K. Lines, Ltd. was served February 7, 1980. The complaint alleges that respondent has assessed higher ocean freight rates than properly applicable in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before August 7, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 80–4791 Filed 2–13–80; 8:45 am]

BILLING CODE 6730–01–M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 8, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CPSC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before March 3, 1980, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Consumer Product Safety Commission

The CPSC requests clearance of a new, single-time, voluntary Communications Antenna questionnaire to be sent to a national household survey panel. This panel is a national sample of households that have agreed to respond to mail questionnaires on a continuing basis. The proposed questionnaire is to be sent to owners of outdoor Citizen Band and T.V. antennas. The purpose of the survey is to provide exposure data that are crucial to an evaluation of the CPSC's communication antenna labeling standard. This standard requires warning labels on CB base station and outdoor TV antennas which inform users of the possible dangers of electrocution or severe burns should the antenna equipment come in contact with electric power lines during installation or removal. In addition, the survey will provide baseline data which will be useful to the Commission in making decisions concerning any further regulatory action on communications antennas. CPSC expects the return date for the questionnaire to be 30 days after GAO clearance, and estimates that respondents will number approximately 1,000 and that time needed for completion of the questionnaire will average 15 minutes.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80–4801 Filed 2–13–80; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Data Acquisition Activities

AGENCY: Office of the Assistant Secretary for Education, Department of Health, Education, and Welfare.

ACTION: Notice of Data Acquisition Activities Involving Educational Agencies and Institutions.

SUMMARY: The paperwork control requirements in Section 400A of the General Education Provisions Act, added by Pub. L. 95–561, require public announcement of certain data requests that Federal agencies address to educational agencies and institutions. Federal agencies propose to collect the data described below from educational agencies or institutions during School Year 1980–81. The data acquisition activities that are covered by this Act are subject to review and approval by the Secretary through the Federal Education Data Acquisition Council (FEDAC).

FOR FURTHER INFORMATION CONTACT: Mrs. Elizabeth M. Proctor, FEDAC Staff, 400 Maryland Avenue, S.W., Washington, D.C. 20202 Phone (202) 245–1022. The contact persons listed in conjunction with the individual summaries are the ones to whom specific comments or questions concerning a data acquisition activity should be directed.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, section 400A of the General Education Provisions Act, the Secretary of Health, Education, and Welfare is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies.

(1) whenever the respondents are primarily educational agencies or institutions; and

(2) whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to federal education programs or research or evaluation studies related to the implementation of Federal education programs. The Secretary has delegated authority to the Assistant Secretary for Education.

We published interim FEDAC review procedures on August 8, 1979 (44 FR 46535), which are now effective. The Council is considering revisions to these procedures based on the public, Federal agency, and Congressional comments received. Revisions, as necessary, will be made and the procedures will be republished. One requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it."

Data activity plan summaries of proposed data acquisition activities for School Year 1980–81 are being published for comment. Each agency or institution subject to the request for data, its representative organizations, or any member of the public, may comment on the proposed data acquisition activity. Comments should be addressed to the project sponsor listed in item (r) of each of the data activity plan summaries. Comments should refer to the specific sponsoring agency and form number and they must be received on or before March 17, 1980. After the public comment period ends, each project sponsor must submit copies of the comments and a summary of them to the FEDAC staff for review. In addition to these specific summaries, a composite listing of known data acquisition activities planned for school year 1980–81 will be published by February 15, 1980.

Dated: February 11, 1980.

Peter D. Relic,

Acting Assistant Secretary for Education.

The proposed data activity plan summaries follow:

Data Activity Plan Summary

(a) Title of the proposed activity; Evaluation of School Health Education Programs.

(b) Name of the Sponsoring Agency/Bureau/Office; Department of Health, Education, and Welfare; Public Health Service; Center for Disease Control; Bureau of Health Education.

(c) Agency Form Number; CDC 001.

(d) Justification; this project will enable the Center for Disease Control (CDC) to evaluate the CDC-supported School Health Curriculum Project (SHCP) relative to four alternative school health curricula. The aim of SHCP is to improve health knowledge, attitudes, and behavior, and to enhance discovery and decision-making skills in elementary school age children. The responsibility for coordination of the development and dissemination of the SHCP resides within the aegis of the National Center for Health Education (NCHE), a private sector non-profit organization under contract to CDC. Presently, six curriculum units (Grades 2–7) are available. Each unit's conference theme is a particular body system: The Ear and Hearing (Grade 2), The Eye and See (Grade 3), The Digestive System (Grade 4), The Respiratory System (Grade 5), The Circulatory System (Grade 6), and The Nervous System (Grade 7). The data collection in schools using the alternative school health curricula will provide information to address the following questions:

(1) What are the short-range and long-range effects on students, teachers, parents, and the community?

(2) How do components of the school health curriculum project compare with similar components of alternative school health curricula?

(3) What are the common factors within and between individual programs associated with success or failure?

(4) In what ways could the School Health Curriculum Project be improved and more widely disseminated?

(e) Description of Survey Plan; A sample of schools, classes, and students in Grades 4–10 who have used the specified school health curricula will be selected from which data will be collected over a two-year period. The data collected will address the content, implementation, and outcomes of the school health curricula as they affect students, teachers, parents, and community support. It is estimated that data will be collected from a maximum of 12,000 students over the two-year period.

(f) Tabulation and Publication Plans; The Center for Disease Control plans to publish a report on the evaluation project in late 1982.

(g) Time Schedule for Data Collection and Publication; Data related to the CDC-supported SHCP will be collected over both the 1980–81 and 1981–82 school years while data on the alternative school health curricula will be collected during the 1981–82 school year. The contractor's final report will be available in August 1982, and the CDC report on the evaluation project will be available in December 1982.

(h) Consultations Outside the Agency: The following individuals outside the agency reviewed the project and provided suggestions which have been incorporated in the work statement.

- Lawrence W. Green, Ph. D., Director, Office of Health Information, Health Promotion and Physical Fitness and Sports Medicine, Office of the Assistant Secretary for Health, DHEW.
- Donald C. Iverson, Ph. D., School Health Coordinator, Office of Health Information, Health Promotion and Physical Fitness and Sports Medicine, Office of the Assistant Secretary for Health, DHEW.
- John Sessler, Ph. D., Evaluation Coordinator, Division of Evaluation, Planning, Budget and Legislation, Office of the Assistant Secretary for Health, DHEW.
- Peter Cortese, Ph. D., Director, Office of Comprehensive School Health, Bureau of School Improvement, Office of Education, DHEW.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Students (public and nonpublic elementary/secondary schools)	25,000	2
Teachers (elementary/secondary)	500	1
School administrators	300	1
Parents	2,000	1
Community leaders	300	1

(j) Sensitive Questions: Since school health curricula address subjects which may be perceived to be sensitive by some, evaluation of these curricula may entail collection of sensitive data. Specific questions will be submitted for FEDAC approval at a later date. Whenever possible, data will be collected anonymously. In the event that personal identifiers are needed, the contractor will be required to code all forms and store the personal identifier key in a separate, secure location.

(k) Estimate of Cost to Federal Government: The total cost of the evaluation project is estimated at $2,000,000 over FY 1980–82.

(l) Detailed Justification of How Information Once Collected Will Be Used: Evaluation data collected from students will be used to evaluate the impact of alternative school health curricula on students' health-related knowledge, attributes, and behaviors. The results of the evaluation will be used to answer such questions as:

- In what ways can the CDC-supported SHCP be improved and more widely disseminated?
- What are the common factors within and between individual programs associated with success or failure?
- Is the CDC-supported SHCP a cost-effective approach to school health education?

(m) Methods of Analysis: The methods of analysis used in this analysis include student impact

assessment, case studies, cost analysis, and materials analysis. The effects to be measured for students will include health-related and non health-related outcomes. The sample student data will be aggregated nationally, and student outcomes by grade will be compared across alternative school health curriculum.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: Section 1703(a)(3) of the Public Health Service Act authorizes "* * * develop health information and health promotion materials and teaching programs including (B) model curriculums to be used in elementary and secondary schools and institutions of higher learning."

(o) Timetable for Dissemination of Collected Data: It is expected that the final report on the evaluation project will be available in December 1982 through the HEW Evaluation Documentation Center, and the National Technical Information Service. In addition, the Bureau of Health Education, CDC, plans to make single copies of the report available on an as requested basis.

(p) Estimate of the Total Person-hours and Costs Required To Complete the Request: 53,100 total person-hours and no direct dollars cost to the respondents other than time to complete the surveys which may be estimated at $21,700.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: This evaluation project was required by the HEW Under Secretary in Part II of the FY 1979 Evaluation Guidance for HEW.

(r) Copy of the Exact Data Instrument: The data collection instruments and detailed plan will be developed by a contractor, not yet selected as of the date of this submission. Copies of the plan and instruments will be available from: Project Clearance Officer, Office of Program Planning and Evaluation, Center for Disease Control, Atlanta, Georgia 30333.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: During completion of the preliminary plan for evaluating the school health curricula, the Contractor (Development and Evaluation Associates, Inc. (DEA)), made preliminary contact with many organizations including the National Center for Health Education, selected school administrators, teachers, and state departments of education where School health curricula of interest are employed.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: September 1980–May 1980; September 1981–May 1981.

Month/Year and Activity

5/80—Possible sites contacted concerning willingness to participate.

6/80—Approval process at district and school levels begun.

6/80—Field testing of instruments.

9/80—Teachers/classes contacted.

11/80—Teachers/classes trained regarding instruments.

(u) Specific Justification for a Multi-year Approval: This is a one-time study which requires collection of cross-sectional and longitudinal data over a two-year period. Evaluation of the curricula necessitates comparison of long-range effects as well as short-term effects.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Food Preference Report.

(b) Name of the Sponsoring Agency/Bureau/Office: Food and Nutrition Service; Special Nutrition Programs; Food Distribution Division.

(c) Agency Form Number: FNS–379.

(d) Justification: Section 6(e) of the National School Lunch Act requires the Secretary of Agriculture to make available to States, for distribution to schools conducting nonprofit lunch programs under the Act, a specified national average value of donated foods or, where applicable, cash in lieu thereof.

Section 14(d) of the Act as amended by Section 6 of Pub. L. 95–166 requires that the Secretary establish procedures which will ensure that the views of local school districts and private nonprofit schools are considered by the Secretary in the purchase of such commodities among schools within the States.

Pub. L. 95–166 also added to the Act a new Section 14(e) which requires State agencies which receive food assistance under the section to establish advisory councils on schools' commodity needs. The food preference information will be obtained from all school food authorities within the State and submitted to the State agency and FNS by the State advisory council. This information will provide the State and FNS with a means of providing schools with preferred food items.

(e) Description of Survey Plan: N/A.

(f) Tabulation and Publication Plans: N/A.

(g) Time Schedule for Data Collection and Publication: The advisory council shall obtain food preference information and submit a report to the State by January 15 of each year and the State shall submit a report to FNS by February 15 of each year.

(h) Consultations Outside the Agency: On January 5, 1979, a proposed rule was published to implement the provisions of Section 14(e) of the National School Lunch Act concerning State advisory councils. The proposed regulations required that the advisory council obtain in a survey of all school food authorities data on the most desired foods, the least desired foods and recommendations for new products. The final rules, published on January 4, 1980 reflected public comments on the composition of the council and recommendations that the views of all participating schools be considered in the preparation of the advisory council's food preference report to the State.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Local education agencies	[1] 15,000	½
Organizations other than schools or education agencies	55	3

[1] Estimated.

(j) Senstive Questions: N/A.

(k) Estimate of Cost to Federal Government: $23,325.

(l) Detailed Justification of How Information Once Collected Will Be Used: The information provided in the food preference report will be used to purchase and allocate preferred commodities among schools within the State. This will meet the legislative requirement of Section 14(d) of the National School Lunch Act.

(m) Methods of Analysis: The information will be compiled at the State and national levels utilizing tabulations of descriptive data.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: Section 14(d)(1) of the National School Lunch Act, as amended by, public law 95–166.

(o) Timetable for Dissemination of Collected Data: N/A.

(p) Estimate of Total Person-Hours and Costs Required To Complete the Request: Estimated—7,765 person-hours; Estimated—77,650 dollar costs to respondents.

(q) Evidence of Any Urgent Need or Very Unusual Circumstances Requiring the Data: N/A.

(r) Copy of the Exact Data Instrument: Darrel E. Gray, Director, Food Distribution Division, Room 610, 500 12th Street SW., Washington, D.C. 20250. Exact data instrument will be available at the above address for public review and comment by May 1, 1980.

(s) Brief Account of Early Involvement and Communication With Respondent: See item (h).

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: The first report is due to be submitted by the advisory council to the State by January 15, 1981 and the State must submit the report to FNS by February 15, 1981. On January 4, 1980 a final rule was published requiring that each State establishing an advisory council. This final rule set forth the requirements for the collection and submission of food preference information. Thus, the States have sufficient lead time to submit this information.

(u) Specific Justification for a Multi-Year Approval: This report replaces the FNS–35 which was used successfully in the past. In addition, Section 6 of Public Law 95–166 requires that the data collected through use of this form be considered in the purchasing and allocating of commodities.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Conduct *A National Evaluation of School Nutrition Programs* (National School Lunch, School Breakfast and Special Milk Progams). The national evaluation includes the following substudies:

- Survey of Food Program Administrators (FA Survey)
- Cross-Sectional Survey of Students
- Household Survey of Parents
- Longitudinal Survey of Students

(b) Name of the Sponsoring Agency/Bureau/Office: Office of Policy, Planning and Evaluation (OPP&E), Food and Nutrition Service, U.S. Department of Agriculture

(c) Agency Form Number: AG/FNS 1106

(d) Justification: Responding to the specific requests in Senate Resolution 90, the study is guided by the following objectives:

- To provide a nation-wide description of the characteristics and operations of the school nutrition programs.
- To identify and describe the nutritional intake of school children and the national need for the school nutrition programs.
- To determine whether existing levels and targeting of program benefits are appropriate for the participants' needs.
- To assess the nutritional and other impacts of school nutrition programs on children, their families, schools, communities, and States.
- To identify and document successful school nutrition projects, models, strategies, and procedures.
- To develop forecasting models that can be used to predict participation in the school nutrition programs.

The contractor plans to develop and use the following survey instruments in order to fulfill the requirements of Senate Resolution 90:

- State Food Administator Questionnaire (State-level program operations, impact, and participation data)
- District-Level Food Administrator Questionnaire (district-level program operations, participation and nutrition service data)
- School-Level Food Administrator Questionnaire (school-level program operations, participation, and nutrition service data)
- Student Background Checklist (attendance, grade, and eligibility data)
- Student Survey (participation and attitudinal data)
- Dietary Intake Questionnaire (student food consumption data)
- Anthropometry Protocol (student height and weight data)
- Household Interview (parental background information, food consumption, and attitude data)
- Teacher Interview (school nutrition program operations and attitude data)
- Principal Interview (school nutrition program operations, school administration and attitude data)
- School Observation Protocol (food waste and program operations data)
- School Food Service Manager Interview (attitude and program organization and operations data)

(e) Description of Survey Plan:

- *Survey of Food Program Administrators.* The contractor will collect through mail questionnaires information about program operations and impact at the State, district and school levels. A nationally representative sample of approximately 900 public and 300 private School Food Authorities will receive mail questionnaires. The program directors for the 50 States and the District of Columbia will be sent mail nutrition programs questionnaires that request information about State-level operations.
- *Cross-Sectional Survey of Students.* The contractor will collect information on student participation in the school nutrition programs. Approximately 9000 students enrolled in about 100 school districts across the nation will be selected to participate. In addition, about 1000 students in private schools and selected comparison schools will be surveyed. During site visits to schools, students will be asked to provide information on dietary intake, height and weight, family background, participation in the programs, and attitudes concerning the food services provided by the school. Information concerning the school nutrition programs in the schools attended by these students will be obtained through on-site interviews from the appropriate school food service personnel, principals, and teachers.
- *Longitudinal Survey of Students.* In the Spring of 1981, the contractor will collect information from a subsample of the students who participated in the Fall 1980 Cross-Sectional Survey. Approximately 3,200 students will be surveyed; District and school personnel will also be interviewed. Information gathered will be similar to that collected in the preceding fall.
- *Household Survey of Parents.* To enhance the usefulness of the information collected in the Cross-Sectional Survey of Students, a household survey of a sample of parents will be conducted in the Fall of 1980. The interview data collected from parents will help to identify the nutritional and economic impacts of the school nutrition programs on students and their families. Parental information and attitudes about these programs will also be obtained.

(f) Tabulation and Publication Plans: A detailed analysis plan for the project has not been developed as of this date. The analysis plan for the FA Survey, the Cross-Sectional Survey, and the Household Survey will be prepared by 2/29/80. The analysis plan for the Longitudinal Survey will be prepared by 5/31/80. The following reports will be prepared using data collected from the surveys:

- Senate Resolution No. 90 (SR 90) Report (descriptive report)
- SR 90 Report (analytical report which will include participation models and data or SR 90 Items: 2, 3, 4, 5, 6, 9, 10, 11
- Household Survey Report
- Final Study Report (will include data from the Longitudinal Survey and the other surveys)

(g) Time Schedule for Data Collection and Publication:

- Collect and Process Data for the FA Survey:

—Conduct FA Survey; 9/15/80–11/15/80
—Analyze FA data for SR 90 Report; 11/15/80–1/15/80
—Prepare and submit draft SR 90 Report (descriptive report); 1/15/81–2/28/81

- Collect and Process Data for the Cross-Sectional Survey:

—Conduct Cross-Sectional Survey; 9/15/80–11/30/80
—Analyze Cross-Sectional Data; 3/1/81–6/30/81
—Prepare and submit Analytical SR 90 Report (includes participation models) and data on SR 90 items: 2, 3, 4, 5, 6, 9, 10, 11; 5/31/81–8/31/81

• Collect and process Data for the Household Survey:

—Conduct Household Survey; 9/22/80–12/15/80
—Analyze Household Survey data; 12/15/80–3/15/80
—Prepare Household Survey Report; 3/15/81–6/1/81

• Collect and process data for the Longitudinal Survey:

—Conduct Longitudinal Survey; 3/15/81–5/15/81
—Analyze Longitudinal Survey data; 7.1.81–10.15.81
—Prepare and submit final Project Report (will include data from the Longitudinal Survey and the other surveys); 10.1.81–1.31.82

(h) Consultations Outside the Agency: The contractor is using an advisory panel composed, in part, of individuals specializing in school food service operations and individuals affiliated with the Committee on Evaluation and Information Systems (CEIS) of the Council of Chief State School Officers. In addition, the contractor has met with several individuals who represent national child advocacy groups to discuss their interest in the national evaluation.

(i) Estimate of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
State Education Agencies	51	3
Teachers, elementary/secondary	680	1
Principals (school)	1,600	2.25
School administrators and supervisors	3,200	2.25
Parents	3,200	1
Students, public elementary/secondary schools	9,500	.90
Students, nonpublic elementary/secondary schools	500	.75
Local education agencies	3,000	1

(j) Sensitive Questions: There are no sensitive questions to be asked in this study.

(k) Estimate of Cost to Federal Government:

	Costs	Government contractor costs	
		Staff	Expenses
• Survey of Food Program Administrators	$999,596		
• Cross-Sectional Survey of Students	$2,206,301		
• Household Survey of Parents	$363,000		
• Longitudinal Survey of Students	$953,434		
Total	$4,522,331	$180,950	$92,387

(l) Detailed Justification of How Information Once Collected Will Be Used: The aim of the data collection is to provide the first nationwide description and evaluation of the school nutrition programs that the Senate requested in SR 90. The principal SR 90 issues for which the contractor is responsible include the following:

• actions necessary to develop a national survey data base on these programs suitable for making projects of program participation and cost through simulation or other techniques;

• the composition and income of families participation in the programs;

• the effect of program participation, by income category; on the participants' nutrient intake and health;

• whether the existing levels of program benefits are appropriate for the participants' needs. The four surveys of this study have been designed to address each of these issues in depth. The Senate is also interested in:

• income verification procedures; and the contractor will determine what verification procedures (if any) are employed. The Senate has also requested consideration of several issues relevant to program management:

• whether the statements of policy contained in the National School Lunch Act and the Child Nutrition Act of 1966 should be modified;

• the options for dissemination of information on successful school food service operating procedures; . . . and

• the need for legislative changes on the items specified for consideration herein. The contractor will make appropriate findings available to OPP&E/FNS regarding these issues.

(m) Methods of Analysis: The data will provide national projections of descriptive statistics for States, school districts, and schools (FA Survey), for students (Cross-Sectional and Longitudinal Surveys), and for parents (Household Survey). Descriptive statistics will include but not be limited to tabulations, means, and standard errors, by major population subgroups, and separately for each of the nutrition programs. Some factor analysis will be used for scale development, principally for the Student and Household Surveys. For all four surveys, the major analytic methods will be variants of regression analysis, including ordinary least squares, logistic regression, path analysis, and econometric modeling.

(n) LEGISLATIVE AUTHORITY SPECIFICALLY REQUIRING OR ALLOWING THE DATA COLLECTION: This contract will provide the major inputs for answering all of the Congressional requests expressed in Senate Resolution 90 with the exceptions of requests #1, #7, and #8.

(o) TIMETABLE FOR DISSEMINATION OF COLLECTED DATA: Data tapes for each of the surveys will be available to users four months after the final project report is submitted to OPP&E/FNS (1/31/82). Interested users will be able to obtain these tapes by making application to OPP&E/FNS (the sponsoring agency).

(p) ESTIMATE OF THE TOTAL PERSON-HOURS AND COSTS REQUIRED TO COMPLETE THE REQUEST:

Respondent type	Total person hour	Estimate of total dollar costs
State Education Agencies	153	$2,295.00
Local Education Agencies	3,00	42,000.00
Teachers, elementary/secondary	680	6,800.00
Principals (school)	3,600	43,200.00
School administrators and supervisors	7,200	43,200.00
Parents	3,200	(1)
Students, public elementary/secondary schools	8,550	(1)
Students, nonpublic elementary/secondary schools	375	(1)
Total	26,758	137,495

[1] No costs.

(q) EVIDENCE OF ANY URGENT NEED OR VERY UNUSUAL CIRCUMSTANCE REQUIRING THE DATA: The Senate has asked the Secretary of Agriculture to provide a final report by March 31, 1981.

(r) COPY OF THE EXACT DATA INSTRUMENT: Data collection instruments for the FA Survey will be available February 15, 1980. Instruments for the other substudies will be available May 1, 1980. Copies of instruments may be obtained at this time from Gary J. Coles, Office of Policy, Planning and Evaluation, Food and Nutrition Service, U.S. Department of Agriculture, 500 12th Street, S.W., Washington, D.C 20250

(s) BRIEF ACCOUNT OF EARLY INVOLVEMENT AND COMMUNICATIONS WITH RESPONDENT POPULATION: The contractor will meet with the 50 State Directors of School Food Service in Denver, Colorado on February 6–7, 1980 to describe the study and how it will fulfill the Congressional mandate in SR 90, the data collection plans, the

reporting plans, and the project schedule. The contractor has already distributed to all Food and Nutrition Service Regional Offices (FNSRO) a description of the study and data collection plans; FNSRO staff were asked to distribute this information to each State office and to School Food Authorities within their State. Lastly, a study brochure will be distributed prior to data collection to all respondents selected to participate in the study. This brochure describes the study, its objectives, the data collection requirements, and the uses to be made of the data collected.

(t) ASSURANCE THAT RESPONDENTS WILL HAVE SUFFICIENT LEAD TIME TO COMPLY WITH REQUEST: The contractor's data collection schedule for the mail questionnaires (FA Survey) allows approximately 2 weeks lead time for respondents to complete and return the instruments. The other data collection instruments (i.e., interviews, observation protocol, questionnaires, and anthropometric measures) will be completed during site visits. The contractor plans to schedule all site visits to occur at the most convenient time for each set of respondents.

(u) SPECIFIC JUSTIFICATION FOR A MULTI-YEAR APPROVAL: Survey data will be collected during the Fall, 1980 and during the Spring, 1981. Hence, a multi-year approval is not required for this study.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Degrees and Other Formal Awards Conferred Between July 1, 1979 and June 30, 1980 and Degrees and Other Formal Awards Conferred Between July 1, 1980 and June 30, 1981.

Note.—The data elements of these two surveys are identical, except that the 1980–81 survey contains racial/ethnic data, and the 1979–80 survey does not.

(b) Name of the Sponsoring Agency/Bureau/Office: Education Department/National Center for Education Statistics/Division of Postsecondary and Vocational Education Statistics.

(c) Agency Form Number: NCES form 2300–2.1 A and B.

(d) Justification:

(1) *Both surveys.* The data from the proposed survey are necessary for NCES to meet its requirement to provide "full and complete statistics on the conditions of education in the United States." (Section 406, Pub. L. 93–380). These data also are the only data that are collected concerning the manpower resultants of higher education, that cover all of the degrees and awards conferred by all of the accredited universities and colleges in the aggregate United States. The National Research Council of the National Academy of Sciences conducts an annual survey of doctorates only, titled "Survey of Earned Doctorates Awarded in the United States," (see attached copy of questionnaire). It should be noted that the repondents to the NRC survey are the doctorate recipients, not the institutions of higher education, and the survey has a principal focus on specific information concerning the individual, including name, address, social security number, date of birth, marital status, number of dependents, education, title of dissertation, name of advisor for dissertation source of support during graduate study, and postgraduation plans. The proposed survey of earned degrees and other formal awards conferred does not duplicate the doctorate recipient survey of the National Research Council, since the proposed survey collects no information respecting individuals, but collects summary data from institutions, aggregated by discipline specialty and division, for all degrees and other formal awards conferred. Some professional associations, such as the American Association of Medical Colleges, collects information.

(2) *1980–81 survey.* Section 601 of Title VI—Nondiscrimination in Federally Assisted Programs of the Civil Rights Act of 1964 (Pub. L. 88–352) states that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." The data from this survey are used by OCR in carrying out its requirements under Title VI of Pub. L. 88–352.

(e) Description of Survey Plan:

(1) *Both surveys.* These surveys collect and report the number oif degrees and other formal awards conferred by accredited universities and colleges in the aggregate United States in the academic years 1979–80 and 1980–81. These surveys are part of the Higher Education General Information Survey (HEGIS). These data are collected and reported by level of degree, sex of recipient, discipline division, discipline specialty, control and level of institution, and by State or other area, by institution, and are reported in summary form as well as for individual institutions.

(2) *1979–80 survey.* The HEGIS XV Earned Degree Survey will collect, edit, and report the data concerning earned degrees and other formal awards conferred by accredited institutions of higher education in the aggregate United States for the academic year 1979–80.

(3) *1980–81 survey.* The HEGIS XVI Earned Degree Survey will do the same for the academic year 1980–81, including data on racial/ethnic categories.

(f) Tabulation and Publication Plan:

(1) *By NCES.* The following publications are planned by NCES for each year of this survey:

1. Earned Degrees Conferred, Early Release.
2. Earned Degrees Conferred, Summary Data.
3. Earned Degrees Conferred, Institutional Data (in microfiche).
4. Associate Degrees and Other Formal Awards Below the Baccalaureate, Summary Data.
5. Associate Degrees and Other Formal Awards Below the Baccalaureate, Institutional Data (in microfiche).
6. The basic data for the above publications also are available in computer tape, in computer printouts, and in EDSTAT online access.

(2) *by OCR:* Data on Earned Degree Conferred from Institutions of Higher Education by Race, Ethnicity, and Sex, Academic Year 1980–81.

(g) Time Schedule for Data Collection and Publication:

Operation	Dates	
	1979–80 survey	1980–81 survey
Survey "as of" date	6–30–80	6–30–81
Survey due date	8–15–80	8–15–81
Clean data tapes	8–31–81	10–31–82
Advance summary white paper tables and report	8–31–81	10–31–82
Microfische and magnetic tape, institutional data	9–15–81	11–15–82
Earned degree white paper tables and summary report to GPO	9–30–81	11–30–82
Associate degrees and other formal awards below the Baccalaureate white paper tables and summary report to GPO	10–31–81	12–31–82

(h) Consultants Outside the Agency: Dr. Stanley V. Smith met with Dr. J. Douglas Conner, Executive Secretary of the American Association of Collegiate Registrars and Admissions Officers (AACRAO), and with more than 100 of the members of this organization, at their annual national meeting in April, 1979, concerning the proposed earned degrees questionnaires for 1979–80 and 1980–81. Dr. Conner and the members of AACRAO supported the questionnaires as proposed (i.e., no changes over the previous years's questionnaries.)

On October 21, 1977, the first official NCES survey of the State Higher Education Executive Officers (SHEEO)/National Center for Education Statistics (NCES) Communications Network was

mailed to the Network representatives in the fifty States, the District of Columbia, and Puerto Rico. The questionnaire requested State preferences of components of the HEGIS packages of the next three years (1978, 1979, and 1980). The report of this survey stated that: "The survey of Finance was the single most selected survey for each year, with versions of Full-Time Faculty Salaries and versions of Degrees Conferred close behind. When the weighted ranking of multiple versions were combined, Faculty Salaries received the highest ranking, followed by Degrees and then Finance. These three areas seem clearly to be priorities, from the State perspective. The Degree Conferred survey was selected as the first priority all three years by thirteen States, and within the top three each year by nine more States." [1]

(i) Estimation of Respondent Report Burden:

Survey	Respondent type	Number	Estimate of average person-hours
1979–80	Universities and colleges.	3,100	1.5
1980–81	Universities and colleges.	3,100	3.8

The data requested on these questionnaires are needed by the institutions themselves as a part of their administration operations. What HEGIS has done, with the backing of AACRAO, is to standardize the terminology and definitions in this area, and to provide a form on which such data can be reported once a year that all national, State, and local agencies can use, thus eliminating duplication and reducing respondent burden. Since the data are already collected for their own use by means of computer, manually, or a combination of both, the work required by the respondent to complete these forms is that of copying the relevant data from their reports to these forms. The VSE Corporation that is the contractor for this survey has determined that the average number of lines of data to be keypunched on the earned degree form with racial/ethnic data is 50; the average number of lines of data to be keypunched on the earned degree form without racial/ethnic data is 35.

The average number of hours required per response for the questionnaire that contains racial/ethnic data was estimated by WESTAT, Inc. as being 3.8 person-hours for this survey. This estimate was made as a part of validation study of the earned degree survey, made by WESTAT, Inc. One of the questions of this study concerned the number of person-hours required by an institution to complete the racial/ethnic earned degree form.

The average number of hours required per response for the questionnaire that does not contain racial/ethnic data has been estimated over the years as being 1½ person-hours for this survey. This estimate had been made on the basis of discussions with registrars.

(j) Sensitive Questions: These earned degrees surveys forms contain no sensitive questions.

(h) Estimate of Cost to Federal Government:

Item	1979–80 Survey	1980–81 Survey
S and E	$94,000	$100,000
Contract	156,000	202,000
Total	$250,000	302,000

(1) Detailed Justification of How Information Once Collected Will Be Used:

(l) *Both surveys.* The data of the proposed survey are used on an annual, 100 percent response basis by the users of the information, such as Mr. Martin Frankel of the Statistical Information Branch of NCES, who makes the annual projections of earned degrees. These projections are used in particular by the Department of Labor in preparing its annual projections of labor supply, and by the Congressionsl Research Service, in preparing information for the Congress.

Other Federal Government users of these data are: Dr. William C. Gescheider, Director of Planning of the Bureau of Higher and Continuing Education of the U.S. Office of Education, in his program planning and program management for that Bureau; Mr. Michael Pilot, Coordinator, Occupational Outlook Handbook, Bureau of Labor Statistics, Department of Labor; Dr. Charles Dickens, Study Director, Supply and Education Analysis Group, National Science Foundation; Mr. Daniel Melnick and others of the Congressional Research Service of the Library of Congress, in preparing information for the members of the Congress, to help them assess the changing and developing needs of our Nation with respect to manpower and higher education; the Equal Employment Opportunity Commission (EEOC); the U.S. Office of Personnel Management; and the Personnel Departments of all of the branches of the Armed Forces. Other Federal users are listed in the attached *The Users of HEGIS Data.* All of the users listed in this report are users of the earned degrees data.

In addition to the above uses by the Federal Government, these data are used by many national associations and agencies for the benefit of the higher education enterprise, by regional associations, State higher education agencies and associations, by individual institutions of higher education (see letter of October 26, 1979, from David C. Heisser, Documents Librarian, Tufts University), and by guidance counselors in high schools and colleges, as well as by private citizens. Moreover, the data from this survey are used by a large number of businesses and industries to help them meet the requirements of Executive Order 11256, respecting the development and implementation of Affirmative Action Plans and the equal opportunity program for women.

(2) *The 1980–81 Survey, Containing Racial/Ethnic Categories:* Section 601 of Title VI—Nondiscrimination in Federally Assisted Programs of the Civil Rights Act of 1964 (Pub. L. 88–352) states that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance." Section 901 of Title IX—Prohibition of Sex Discrimination, of the Education Amendments of 1972 (Pub. L. 92–318) states that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, . . ." The data from this survey, which on alternate years collects racial/ethnic data, are used by the Office for Civil Rights (OCR) in carrying out its responsibilities to verify compliance or lack of compliance with Title VI.

Since the information on earned degrees is obtained by sex each year, the Office for Civil Rights uses such data each year in carrying out its responsibilities to verify compliance or lack of compliance with Title IX. The reason the racial/ethnic data are collected on alternate years instead of every year is to reduce respondent burden.

(m) Methods of Analysis:

(1) *Both surveys.* Tabulations of descriptive data by main classifications, for national, State, and institutional levels, as well as for individual institutions.

[1] Ryland, Jane, *HEGIS Preference Survey,* SHEEO/NCES Communication Network, Boulder, Colorado, January, 1978. p. 4

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection:

(1) *Both surveys:* "There is established, within the Office of the Assistant Secretary, a National Center for Education Statistics . . . The Center shall—

(1) collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;. . . " (Sec. 406 of Pub. L. 93–380).

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (Sec. 601 of Pub. L. 88–352).

(2) *1980–81 survey.* "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, . . ." (Sec. 901 of Pub. L. 92–318).

(o) Time Table for Dissemination of Collected Data:

(1) 1979–80 survey: Advance Release and tapes: August, 1981.

Summary Data reports and Institutional Data microfiche: October, 1981.

(2) 1980–81 survey: Advance Release and tapes: October, 1982.

Summary Data reports and Institutional Data microfiche: December, 1982.

(p) Estimate of the Total Respondent Person-Hours and Costs

1979–80 survey: $31,000: 1 hour, clerical, at $5.00/hour; $5.00 0./5 hour professional, at $10.00/hour: $5.00 Total: 1½ hours, and $10.00 per respondent, for 3,100 respondents=$31,000 and 4,650 total person-hours.

1980–81 survey: $71,300: 3 hours, clerical, at $5.00/hour: $15.00 0.8 hours professional, at $10.00/hour: $8.00 Total 3.8 hours, and $23.00 per respondent, for 3,100 respondents=$71,300 and 11,780 total person-hours.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Exact Data Instruments: Copies of the exact data instruments may be obtained from: Dr. Andrew J. Pepin, Room 3073–H, National Center for Education Statistics, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: See (h) above.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request:

(1) 1979–80 survey: June, 1980—June, 1981.

(2) 1980–81 survey: June, 1981—August 2, 1982.

See (h) above. The data elements have remained the same since 1975–76, with racial/ethnic data collected on alternate years.

(u) Specific Justifications for a Multi-Year Approval: Since the data elements of these forms have remained the same since 1975–76, with racial/ethnic data collected on alternate years; since the data requested on these forms are needed by the institutions themselves as a part of their administrative operations (See (i) above), so these forms represent a small or minimum burden; since the same data elements have been collected since 1975–76; since the data are authorized by legislation (See (n) above); and since it is hoped that considering the two years together will save both time and paperwork, this request is therefore submitted for the approval of this survey for two years (1979–80 and 1980–81).

Data Activity Plan Summary

a. *Title of Proposed Activity:* Survey of Private Elementary and Secondary Schools, 1980–81.

b. *Name of Sponsoring Agency/Bureau/Office:* National Center for Education Statistics, (NCES), Division of Elementary and Secondary Education Statistics, (DESES), Institutional Surveys Branch, (ISB).

c. *Agency Form Number:* NCES Form 2325–2.

d. *Justification:* (1) Section 406(b)(1) of the General Education Provisions Act provides that NCES shall "collect, collate, and from time to time, report full and complete statistics on the condition of education in the United States . . ."

Private schools have played a significant role in the American educational process since the earliest period when the Nation's private schools were founded to serve the educational needs of colonial communities.

In the school year 1976–77, NCES conducted a national survey of private elementary and secondary schools. The Current Population Survey conducted by the Census Bureau collected data on private elementary and secondary school enrollments from a national sample of households without identifying the schools. NCES, in turn, surveyed the universe of institutions.

The collection of universe data on private schools continued by NCES through the school year 1978–79, resulting in a representation of the nation's overall view of all private elementary and secondary schools in the U.S. and identified the changing nature of private education.

(2) Data on private schools are essential to national planning and the formulation of national policies with regard to public funding of private school education. Given the constitutional issue of church-state relationships, the number of private schools having religious affiliation and the numbers of pupils served are critical variables in this debate. The survey also provides both the Assistant Secretary for Education and the Commissioner of Education with data they have identified as needed for policy formulation and development of federal assistance legislation. Many state educational agencies have no control over or regulatory responsibility for private schools, hence they collect little or no data from these schools. Several of these agencies have expressed a desire to have data from these schools in their states for policy planning purposes. NCES also receives numerous requests each year on the number of schools, pupils enrolled and staff personnel employed in private schools. Vendors of educational supplies, equipment, and materials have indicated that some of the data are useful for market analysis purposes. Officials from the Council for American Private Education (CAPE) and the National Catholic Educational Association (NCEA) have expressed that these data are used to form positions on National issues affecting private education. But perhaps more important, these data have yielded a base which supports a more rational discussion of the role of private education in the United States.

(3) As stated earlier, NCES is the only Federal office that collects universe data on individual private elementary and secondary schools. In this capacity, NCES will make available to the public tapes with data on private schools for the school years 1976–79.

(e) *Description of Survey Plan.* (1) Each of the estimated 20,000 private schools will be mailed a survey questionnaire. CAPE and NCEA, under contract to NCES, prepared in school year 1977–78 a list of all private schools known to exist along with addresses of each. That list was updated by CAPE and NCEA during the 1978–79 school year survey and NCES, in turn, computerized and developed a mailing list.

(2) The private school survey will consist of two components: a. Identification and location of the school, including type of school and religious affiliation, if any, and

b. Updated information on the number of pupils, high school graduates, and the number of full-time equivalent classroom teachers.

These components of the survey have been tested by previous surveys conducted by NCES.

In addition, each school will be given the opportunity to verify the data and correct erroneous or imputed entries on enrollment for school year 1976–79, that now appears in the NCES data tapes.

f. *Tabulation and Publication Plans.* Tables are planned including historical ones that will draw on earlier years' surveys to measure the growth, decline, or stability of the private school sector of elementary-secondary education and to be compared with data acquired from the public schools. A summary report is planned for fall 1981 with a final report due in early 1982. A computer tape containing a record for each respondent will be made available to interested users thru the NCES tape distribution system.

g. *Time Schedule for Data Collection and Publication.* NCES plans to mail forms to the schools in early October 1980 with returns expected in approximately one month. Two additional months will be allowed for follow-up and editing of the completed forms. A clean data base should be available approximately two months later. Table production should be completed by April 1981 with a manuscript ready for review by June 1981. Elapsed time between data collection and final publication is estimated to be 8 months.

h. *Consultations Outside the Agency.* (1) The survey form and plans have been reviewed by the directors of CAPE, who are representatives of the following national associations:

American Lutheran Church
Friends Council on Education
Lutheran Church-Missouri Synod
National Association of Episcopal Schools
National Association of Independent Schools
National Catholic Education Association
National Society for Hebrew Schools
National Union of Christian Schools
U.S. Catholic Conference

Similar detailed discussions were also held with Rhoda Goldstein (NCEA), Edward D'Allessio (Office for Nonpublic Schools), Emerson Elliott and Steve Barrows (NIE).

An earlier draft of the form was also submitted for comment to Dwight Crum, Director of Nonpublic School Services, USOE, Martha Jacobs (APSE) and David Mandel (NIE). All components were taken into account in the development of the survey form.

(2) CAPE directors have informed NCES that all data requested are already a matter of record and can be reported with no difficulty.

i. *Estimation of Respondent Reporting Burden.*

Respondent type	Number	Estimate of average person-hours
Nonpublic nonprofit elementary and secondary schools	20,000	.3333

j. *Sensitive Questions.* Not applicable, none asked.

k. *Estimate of Cost to Federal Government.* Cost is estimated at $120,000.

l. *Detailed Justification of How Information Once Collected Will Be Used.* The survey is needed to update the universe information on private schools. The survey will provide information on the number of private schools, their geographic location, and limited data item information about the schools. Corrections of prior years' enrollment provided by the schools will be used to correct the historical data tape prior to their release to the public. NCES will be able to measure the growth, decline, or stability of the private school sector of elementary and secondary education. The survey will also be useful to develop estimates of total school enrollment for small areas of the country. Enrollment size of public schools can be linked with enrollment size of private schools in the counties, cities and Standard Metropolitan Statistical Areas. These local area statistics will be used to measure population change and the shifting of enrollments between public and private schools. These data could also be linked to the 1980 Census data to study other characteristics of areas with changing enrollment. Information collected will be used for management, policy and legislation.

m. *Method of Analysis.* State, location and religious affiliation will be used as variables in the presentation of data on the schools, pupils, high school graduates, and classroom teachers. Other analyses will be generated as the need arises, such as comparison with public school data.

n. *Legislative Authority Specifically Requiring or Allowing the Data Collection.* See section (d) (1).

o. *Timetable for Dissemination of Collected Data.* The lapsed time between survey close out, the first printed publication and the dissemination is expected to be six months.

p. *Estimate of the Total Person-Hours and Cost Required to Complete the Request.* CAPE directors estimated the school officials could complete a survey form in twenty minutes or less.

Respondents	Person hours	Cost
20,000	.3333	$10.00
20,000 × .3333 = 6,666 hours × $10.00 = $66,660 Estimated Total Cost to Respondents = $66,660		

q. *Evidence of Any Urgent Need on Very Unusual Circumstance Requiring the Data.* Not required, not needed.

r. *Copy of the Exact Data Instruments.* Copies of instruments may be obtained from project officer: Joanell T. Porter, FOB–6—Room 3017, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245–8245.

s. *Brief Account of Early Involvement and Communications with Respondent Populations.* The survey has been discussed with and received approval from the Council for American Private Education which represent a broad spectrum of the private education. CAPE is a representative of the National Private School Associations listed in section h (1).

t. *Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request.* Before the ending of the 1979–80 school year, the respondents will be informed by the Council for American Private Education and the National Catholic Educational Association that the survey forms will be mailed to them in October 1980. NCES plans to allow one month for response.

u. *Specific Justification for a Multi-Year Approval.* Not applicable.

Data Activity Plan Summary

(a) Title of the Proposed Activity: 1981 Survey of Characteristics of Noncollegiate Postsecondary Students.

(b) Name of the Sponsoring Agency/Bureau/Office: National Center for Education Statistics/Division of Postsecondary and Vocational Education Statistics/Adult and Vocational Surveys and Studies Branch.

(c) Agency Form Number: NCES Form 2389.

(d) Justification: Data are needed on the various postsecondary vocational programs in the noncollegiate sector which represent one of the most important parts of the total education picture in the United States. Postsecondary vocational education has grown in response to the need to

provide salable skills for those individuals who would experience difficulty in more traditional higher education institutions, but who could profit from training beyond the high school level. These programs also provide opportunities for periodic retraining and skill upgrading that serve the needs of those already with a job who might otherwise become ineffective or "obsolete" by an advancing technology.

The following are some of the reasons this survey is being undertaken:

- The NCES has as its mandate (Title V, Section 501(a) of Pub. L. 93–380) the development of information on all types of education in the United States.
- Information on the sex of students enrolled in each program cross-classified by other characteristics is one of the major sources for the study of the extent of sex discrimination and sex stereotyping (Title II, Section 523(a) of Pub. L. 94–482).
- The national concern for career education (Title II, Section 161(b) of Pub. L. 94–482 which established the National Occupational Information Coordinating Committee, NOICC) mandates a full review of students in vocational education, including their work/education history and their plans for the future. The results of this survey also provides some clarification of the role of secondary schools in meeting the needs of their vocational students. These and other types of information form the background for proposing plans and operating procedures for an occupational information system, as mandated by this section of the law.
- The results of this study will assist in comparative and interpretive analyses using the results of other studies, such as for the postsecondary portion of the Vocational Education Data System (VEDS) Title II, Section 151(a) of Pub. L. 94–482) and the Participation of Adult Education (PAE) survey conducted by the Bureau of the Census for NCES.

(e) Description of Survey Plan: *Sample of schools.*—A sample of approximately 600 noncollegiate postsecondary schools will be selected from the approximately 7,000 included in the 1980 Directory of Postsecondary Schools With Occupational Programs except for institutions which are also included on the HEGIS tape, flight schools, correspondence schools, and schools with programs of short duration (less than 3 months). States will be given the opportunity to use the NCES questionnaire to supplement their data collection.

Sample of Students.—Schools selected for the sample will be notified and the name of a school coordinator will be requested. Coordinators in schools will be asked to send to the contractor a complete list of all students currently enrolled in a specific program area. From this list, the contractor will select a systematic random of students of approximately 10 students by sex and by program.

Mailout and followup.—Survey forms addressed to students in the sample will be sent as a package to school coordinators for distribution to the students, if they want to followup the students themselves, or directly to the students themselves. If necessary, there will be one postcard followup, one full package followup, and one telephone call.

OEs Handbook VI will be used to code the program offerings and the DOLs Dictionary of Occupational Titles for occupations.

Privacy.—The privacy of students will be protected by the contractor, as follows: The school coordinator will be sent a package of sealed envelopes addressed to the students selected for the sample. The label on the envelope will have only the student's name and address; the label for the questionnaire will also have an ID number and the name of the school. When the questionnaire is returned, the label will be removed from the questionnaire and destroyed. A new ID number will be assigned and written on the questionnaire and on the keypunched cards which are then filed. This latter step is necessary in case any followup or item resolution is needed. After all data are extracted and placed in the computer, the questionnaire will be destroyed. Reports stemming from this project will present data only in the aggregate; no data will be presented that might identify individual students.

(f) Tabulation and Publication Plans: A count of responses will be published as a Management Bulletin shortly after the closeout of the survey. For the final report more detailed information will be available. Cross-tabulations will be made of the responses to questionnaire items by sex, age, and ethnic group; by major type of program; and by employment status. Special tabulations of detailed programs offered will show hours per week and in the program, and if employed, hours per week on the job.

In addition to tables showing the status of students for 1981, data from previous surveys will be used for trend purposes.

(g) *Time Schedule for Data Collection and Publication:*

Target date and Task

November 1980.—Draw sample of schools, contact schools to enlist cooperation. Draw sample of students.
January 1981.—Mail survey forms to students.
February.—Begin followup procedures.
April.—Closeout survey.
June.—Deliver edited tape, prepare Management Bulletin.
October.—Final report, prepared by NCES.

(h) Consultations Outside the Agency: The survey form for this study was originally developed by a five-member national planning committee in 1976. Since that time, the form has been reviewed by the following organizations, with whom agreement was reached on all changes:

Educational Rehabilitation Service, Veterans Administration
Federal Trade Commission
National Association of Trade and Technical Schools (NATTS)
Bureau of Occupational and Adult Education, OE
National Occupational Information Coordinating Committee

In addition, the Committee on Evaluation of Information Systems (CEIS) panel of the Council of Chief State School Officers is currently reviewing the proposed form.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Vocational/technical/career postsecondary students	6,000	11 minutes.
Vocational/technical/career postsecondary institutions	600	30 minutes.

(j) Sensitive Questions: There are no sensitive questions.

(k) Estimate of Cost To Federal Government (in thousands): Not yet available.

(l) Detailed Justification of How Information Once Collected Will be Used: The various Federal and other agencies interested in the output of the noncollegiate postsecondary education system (see section (h)) need the information for manpower planning and training purposes. The survey will provide information on the reasons and motivations for the students' selection of their training programs and schools and their career plans. Insight can be obtained into previous training and how successful the student thought that training was. A better understanding of the chances of success of the various programs with regard to characteristics of the students will be provided through comparative analysis of the data.

(m) Method of Analysis: Data will be aggregated at the national level and tabulated and cross-classified by the descriptive data. Some analysis of trends will be made of the three years (1977, 1979, and 1981) data.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: Title II, Section 161(b)(1) of P.L. 94–482:

"There is hereby established a National Occupational Information Coordinating Committee which shall . . .

(B) develop and implement . . . an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs . . ., which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures and standardized occupational classifications; . . ."

(o) Timetable for Dissemination of Collected Data:

June 1981—Disseminate final, edited computer tape of collected data and Management Bulletin.

February 1982—Disseminate final publication.

(p) Estimate of the Total Person—Hours and Cost Required To Complete the Request:

	Person-hours	Estimated cost
Students	1,100	$4,400
Schools	300	2,250

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: N/A.

(r) Copy of the Exact Data Instrument: A copy of the questionnaire is available from: Mr. Arthur Podolsky, NCES/DPVES/AVSB, 400 Maryland Avenue, SW., Room 3071, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications with Respondent Population: The largest single accrediting body of private schools represented in this universe (NATTS) was consulted (see h above). They have approved the questionnaire in its present content and so notified their accredited schools to possibly expect receipt and encourage cooperation if received.

Through the NOICC system, the Federal Government is in a constant contact with each SOICC (State Occupational Information Coordinating Committee). They know about the survey and expect it biennially. (In alternate years, the SOICC's participate in gathering data for the survey which defines the universe and produces the Directory of Postsecondary Schools with Occupational Programs).

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Requests: Schools have about one month lead time to comply with the request for students names.

No lead time is required for students because the completion of the questionnaires requires no recourse to records.

(u) Specific Justification for a Multi-Year Approval: The 1983 survey will be needed to update the trend data. This survey was initiated in 1977 and has remained basically unchanged since then. Consultations outside the agency (see h above) indicate that no known changes are called for. Response burden is minimal at each level (see i above). Justification for the survey itself, included in d above, applies to 1983 as well.

Data Activity Plan Summary

(a) Title of the Proposed Activity: 1980–81 Teachers Language Skills Survey (TLSS).

(b) Name of the Sponsoring Agency/Bureau/Office; National Center for Education Statistics/DESES/ESEAB.

(c) Agency Form Number; NCES 2397.

(d) Justification;

Secs. 731(c) (1) and (4) of the Bilingual Education Act, Title VII, ESEA, as amended by Pub. L. 95–561, call for an assessment of the number of teachers needed to carry out bilingual education programs and a plan for training the needed teachers. Sec. 742(b) provides for studies to determine the effectiveness of Title VII-sponsored teacher training programs. This study is required to update the count of public school teachers with the required qualifications obtained in the 1976–77 TLSS. It will make possible estimates in the changes in the numbers fully qualified and partially qualified teachers between 1976–77 and 1980–81, the number of teachers in 1980–81 who have received training sponsored by Title VII, ESEA, and the number trained in Puerto Rico and in foreign countries who are available to implement programs of bilingual education.

The study will be coordinated with the study of the Impact of Title VII-funded Training Programs Operated by Institutions of Higher Education sponsored by the Office of Education Office of Evaluation and Dissemination. Data from this study will be used by planners in the Department of Education in preparing the mandated reports to the Congress and in implementing and monitoring sections of the legislation pertaining to teachers' qualifications and training.

Sections of the legislation emphasizing teacher training and teacher qualifications had not been implemented at the time that the first survey of teachers' qualifications for bilingual education programs was conducted in 1976–77. There is no other source of this type of information on teachers in U.S. schools.

(e) Description of Survey Plans; Approximately 14,000 public school teachers will be sampled in a two-stage sample with schools as the first state units. The sample will be drawn to represent the States of California, New York, Texas, and all other States in the aggregate. Teachers teaching in programs supported by Title VII, ESEA, will be oversampled to permit separate analysis of their qualifications in comparison with teachers not teaching in programs supported by Title VII. A subsample of about 200 responding teachers at approximately five sites will be interviewed and tested using a standardized language proficiency testing procedure. The sites will be selected with the assistance of local personnel and will not be intended to be nationally representative. Findings will be used to validate the self-ratings of languange proficiency in the questionnaire.

The contract for the survey will call for a study of non-responding teachers and schools in the event that the response rate for any of the geographic areas or among the Title VII teachers falls below 85 percent. Findings from this study will be used to minimize possible bias resulting from non-response.

(f) Tabulations and Publication Plans; Data will be tabulated for teachers using non-English languages in instruction or teaching English as a second language (ESL) and those not doing either in 1980–81 by background and qualifications and whether they received training supported by Title VII or not and whether training was obtained abroad or not. Data will be tabulated separately for teachers who have graduated from Title VII-funded university programs by year of graduation. Data will also be tabulated separately for teachers teaching in bilingual education programs supported by Title VII. Tabulations will be produced by October 1981 for use in reporting to the Congress and the President as required in the legislation. A summary report with all relevant data will be published in spring 1982 to be distributed to bilingual educators and the general public.

(g) Time Schedule for Data Collection and Publication; Data will be collected

during the 1980–81 academic year. Clean data tapes and tabulations will be produced by October 1981, for the use of Department of Education planners and the Congress. The final report will be published in spring 1982.

(h) Consultations Outside the Agency: As study A–6, under the Part C Research Agenda of the Bilingual Education Act, Title VII, ESEA, as amended by Pub. L. 95–561, the 1980–81 Teachers Language Skills Survey has been developed and coordinated under the supervision of the Part C Coordinating Committee, including James J. Vanecko, Deputy Assistant Secretary for Education Policy Development; Josué M. González, Director, Office of Bilingual Education; Lois-ellin Datta, Acting Associate Director, Teaching and Learning Programs Division, National Institute of Education; Carl E. Wisler, Director, Elementary and Secondary Programs Division, Office of Education and Dissemination; Kathy Truex, Office of Assistant Secretary for Education and Ron Hall, Office of the Assistant Secretary for Education. In addition John Chapman, Office of the Assistant Secretary for Planning and Evaluation; Ernestina Carrizosa, National Institute of Education; Tetsuo Okada, Office of Evaluation and Dissemination, and Gilbert García, Office of Bilingual Education, are providing assistance.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Public elementary/secondary teachers	13,800	.2
Public elementary/secondary teachers	200	.5
School administrators and supervisors	2,000	.5

(j) Sensitive Questions: Not applicable.

(k) Estimate of Cost to Federal Government: Not yet available.

(l) Detailed Justification of How Information Once Collected Will Be Used: *legislation:* Data are needed to fill the reporting requirements in the Bilingual Education Act and to provide the information needed by the Congress in the renewal of the legislation beginning in the spring of 1982. Data on the numbers of fully qualified and partially qualified public school teachers will be used by Department of Education planners and the Congress in considering changes in the legislation pertaining to qualifications and training of teachers. In addition, updated numbers of qualified teachers being used and not being used are needed as input for the bilingual teacher supply/need model.

Program Management: The data will be used by the Office of Bilingual Education (OBE) to determine training needs of teachers, the extent to which teachers with Title VII/sponsored training are employed in programs, the extent to which teachers employed in Title VII programs meet qualifications standards and compare with teachers not employed in Title VII programs. It will also be used by OBE in the preparation of the mandated plan to train teachers for programs to meet the needs of limited-English-proficient children.

Research and Evaluation: The data being collected in the TLSS will be coordinated with data from an evaluation study of Title VII teacher training conducted under an Office of Evaluation and Dissemination contract. The TLSS will provide information on the numbers of teachers with foreign training who are teaching in U.S. schools for use in the teacher training study. This information is available from no other source. The TLSS will also provide an independent estimate of the number of Title VII-trained teachers using their training in Title VII-supported programs.

(m) Methods of Analysis: Data will be aggregated on the national level and for three States—California, New York and Texas—and the rest of the country. The main analytical method will be cross-tabulation. Descriptive data only will be reported initially.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection:

The Bilingual Education Act, Title VII, Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561, Sec. 731(c), 20 U.S.C. 3241.

The Commissioner, in consultation with the Council, shall prepare and, not later than February 1, 1980, 1982, and 1984, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the programs for persons of limited English proficiency. Such report shall include—

(1) a national assessment of the education needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts, including . . . (b) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English proficiency and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel needed to carry out programs of bilingual education in the States.

Sec. 742(b), 20 U.S.C. 3252: Research activities authorized to be assisted under this section shall include—

(7) studies to determine the effectiveness of teacher training preservice and inservice programs funded under this title; * * *

(o) Timetable for Dissemination of Collected Data: Data will be avialable for planning use and for the mandated report by fall 1981. See (f) for the methods and content of the data dissemination and (g) for the time schedule of publication.

(p) Estimate of Total Person-Hours and Costs Required to Complete the Request:

Estimated total person-hours—3,860
Estimated total costs to respondents—$45,100

(q) Evidence of any Urgent Need or Very Unusual Circumstances Requiring the Data: Not applicable.

(r) Copy of the Exact Data Instrument: A copy of the instrument may be obtained by writing to: Dr. Dorothy Waggoner, National Center for Education Statistics, Room 3131, FOB #6, 400 Maryland Avenue SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: Approximately 10,000 teachers responded to the 1976–77 TLSS. The findings were the subject of various papers and two articles published in professional journals. The new survey was announced to directors of bilingual education projects and State agency representatives in November 1979, and to numerous teachers and other individuals who have requested the Office of the Assistant Secretary of Education for information about bilingual education research plans throughout 1979. The draft questionnaire was reviewed by Chief State Schools Officers' Committee on Evaluation and Information Systems at its January 1980

meeting. The Committee recommended the survey.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: Administrators and teachers will have approximately one month to reply.

(u) Specific Justification for a Mult-Year Approval: Not applicable.

Data Activity Plan Summary

(a) Title of Proposed Activity: The Vocational Education Data System (VEDS).

(b) Agency/Bureau/Office: National Center for Education Statistics/Division of Postsecondary & Vocational Education Statistics.

(c) Agency Form Numbers: NCES 2404, 2404–1, 2404–2, 2404–5, 2404–6, 2404–7, 2404–8 (Secondary); NCES 2404A, 2404A–1, 2404–2, 2404–5, 2404–6, 2404A–7, 2404–8 (Post-secondary).

(d) Justification: The legislative mandate for VEDS stated in PL–94–482 is to provide a national reporting system to generate uniform data from the States, and also to enhance the information base for Congressional decision-making with respect to the establishment of vocational education policies. The information collected will be used to prepare the Commissioner's Annual Report to Congress on the status of Vocational Education, and for planning and monitoring vocational education programs at the Federal, State and Local levels as mandated.

(e) Description of Survey Plan: Each designated sole State Board for Vocational Education shall annually submit comprehensive information by institutional level (both secondary and postsecondary) on vocational—

(1) students (including information on their race and sex),
(2) programs,
(3) program completers and leavers,
(4) staff,
(5) facilities, and
(6) expenditures.

(f) Tabulation and Publication Plans: The most important publication from a program standpoint is the mandated Commissioner's Annual Report to Congress. This report, due July 1 of each year, will incorporate the results of the VEDS data collection.

Also of importance to the States is the tabulation of universe figures that NCES will provide for each State. NCES will utilize the sample follow-up data provided in the Completer/Leaver and Employer Follow-Up Reports and calculate the State universe reports. These reports, prepared by NCES, will be returned to the States along with projected enrollment figures for the next year.

Finally, NCES plans to produce its own annual publication (patterned somewhat after the mandated *Condition of Education* report) based on VEDS that will give a comprehensive overview of the vocational education sector. Bureau of Labor Statistics data, Higher Education General Information Survey data, and other such data, will be integrated with VEDS data in this report.

(g) Time Schedule for Data Collection and Publication: This notification covers the third and forth years of an annual data collection series which began with the 1978–79 school year. Milestone dates in the data collection schedule are shown below:

	Year of series... Data collection year	Type of data	Report due date
	(Year of reference)		
(1)	1978–79*.....	Students, programs enrollments, completer/leavers, staff, facilities, expenditures.	December 1979.
		Follow-up of students, employers.	December 1, 1980.
(2)	1979–80*.....	Students, programs enrollments completers, staff, facilities, expenditures.	December 1, 1980.
		Follow-up of students, employers, and leavers.	December 1, 1981.
(3)	1980–81.....	Students, programs enrollments completers, staff, facilities, expenditures.	December 1, 1981.
		Follow-up of students, employers, and leavers.	December 1, 1982.
(4)	1981–82.....	Students, programs enrollments completers, staff, facilities, expenditures.	December 1, 1982.
		Follow-up of students, employers, and leavers.	December 1, 1983.

*Not covered in current request (notification).

(h) Consulations Outside the Agency: The development of the data elements and definitions, as well as the Federal forms and record keeping requirements, has involved over 500 persons and organizations to date including:

Organizations and Contracts

Organization and Name and Title of Contact

American Vocational Information Association, J. B. Morton, President.
American Vocational Association, Gene Bottoms, Executive Director.
Council of Chief State School Officers, Barbara Thompson, Executive Officer.
National Advisory Council on Vocational and Technical Education, Reginal Petty, Executive Director.
Office for Civil Rights, Paul Kretchmar, Division Director.
Office of Evaluation and Dissemination, Ed Rattner, Project Officer.
Bureau of Labor Statistics, Richard Dempsey, Coordinator, Manpower Needs Studies.
Bureau of Education for the Handicapped, William Halloran, State Plan Officer.
Employment and Training Administration, Leo Gershenson, Acting Chief, ADP Operations.
National Institute of Education, Henry David, Head Vocational Education Study.
National Occupational Information Coordinating Committee, Ralph Allyn, Acting Director.
Committee on Evaluation and Information Systems Vocational Education Task Force, Charles Lloyd, Chairman.
Veterans Administration, Fred Brenan, Assistant Director Research and Biometrics.
National Association of State Directors of Vocational Education, Gene Lehrman, President.
Postsecondary Education Policy Committee on Information, Jane Ryland, Project Officer.
Bureau of Occupational and Adult Education, Kent Bennion, Division Chief.

In summary, most Federal agencies with educational interests have been directly involved in the development of VEDS, and all States have been significantly involved with multiple representatives in several meetings.

(i) Estimation of Respondent Reporting Burden

Respondent type	Number	Estimate of average person-hours per response
(1) State boards for vocational education	[1]57	2150
(2) Former students	[2]448,000	0.17
(3) Employers	[2]112,500	0.07

[1]State summaries by institutional level (secondary and postsecondary).
[2]Sample.

(j) Sensitive Questions: The enabling legislation and/or implementing regulations require that the VEDS system contain several items of a potentially sensitive nature. These include special needs (particularly handicapped status), race/ethnic identification, information supplied about the former student by his

employer, and student-supplied salary information. The law (or regulations) require that the institutions respond to the first two of these items; although the latter two questions sets are mandated, responses to them by employers and students are voluntary.

(k) Estimate of Cost to Federal Government: The total direct cost to the Federal government (including processing costs and staff personnel) is estimated to be $500,000 per year excluding validation and capacity building efforts and costs born by the States through the Vocational Education Act funds.

(l) Detailed Justification of How Information Once Collected Will be Used: Information collected will be used to prepare the Commissioner's Annual Report to Congress on the status of vocational education. This information will enhance the decision capacity of Congress with respect to the establishment of vocational education policies. These data will enhance such Bureau of Occupational and Adult Education activities as priority setting and program management. A second use deriving from the first is to provide each State with a reliable mechanism for monitoring and managing its own delivery of vocational education. In addition, the States will have equivalent data with which to make comparisons. With more objective and uniform data made available on the operation of statewide vocational education programs, the State Education Agencies (SEA) will be in a better position to produce program outcomes responsive to the differing needs of their students. State Education Agencies will also be better able to respond to the new and emerging needs of business and industry.

(m) Methods of Analysis: Data will be scanned, prepared for ADP, entered, edited and stored. Analyses will be done for internal consistency. Primary analyses will focus on issues and questions of interest to the Congress, using descriptive statistics, regression analyses and multivariate analyses.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: " . . . National Center for Education Statistics shall design, implement and operate this information system. This system shall include information resulting from the evaluations required to be conducted by Sec. 112(b) and other information on vocational (A) students (including information on their race and sex), (B) programs, (C) program completers and leavers, (D) staff, (E) facilities, and (F) expenditures." (Sec. 161 (A) of Pub. L. 94–482)

(o) Timetable for Dissemination of Collected Data: Each July 1, the Commissioner is required to submit to Congress an annual accountability report on vocational education for the prior school year. Tables and follow-up results for the preceding school year will be routinely sent to each State each April. Additionally, from time to time, the National Center for Education Statistics plans to publish a document entitled the Condition of Vocational Education. Other reports will be produced on an *ad hoc* basis as requested by Congress or the Administration.

(p) Estimate of Total Person-Hours and Costs Required to Complete the Request: Person Hours—206,595. Dollars—$25 to $50 Million Per Year (all costs).

(q) Evidence of any urgent Need or Very Unusual Circumstance Requiring the Data N/A.

(r) Copy of the Exact Data Instrument: A copy of the full plan and the data instrument(s) may be obtained from: Dr. Robert L. Morgan, ASE/NCES/DPVES/SDAB/VEDS, 400 Maryland Avenue S.W., FOB #6 Room 3073, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: NCES has made every possible effort to involve and communicate with the respondent population and/or their representative organizations. The first public meeting on the revised forms was held in Washington, D.C., May, 1978 at the State Directors of Vocational Education conference. The primary concern of this group was the funding for implementation rather than the data *per se*. The second public meeting produced more technical comments. This occurred at the American Vocational Information Association, (AVIA) May 23–25, 1978, in Oklahoma City. Forty-one States were represented at the meeting with over 100 participants.

Based on both the House report and State input, NCES as part of the technical assistance to States, began a series of four 5-day regional workshops, which reached 52 States and territories beginning in October, ending just prior to final OMB clearance in December 1978. Both lecture and demonstration were utilized to assure that personnel from each State fully understood the reporting requirements of the data system.

On March 1, 1979, the final, cleared forms for collecting 1978–79 school year data were sent to all workshop participants, State Directors of Vocational Education, Chief State School Officers and Executive Officers of the State Board for Vocational Education. Along with these forms a copy of questions and answers from the workshops were sent to workshop participants, detailing NCES positions on all recurring questions raised in the sessions. Participants were provided with updated workshop visuals and printed materials. In order for the States to conduct workshops within their States, NCES also provided local workshop materials.

Throughout the remainder of 1979, numerous meetings were held with the State Directors of Vocational Education, the Big City Directors of Vocational Education, Committee on Evaluation and Information Systems and representatives of Postsecondary institutions. National Center for Education Statistics fully intends to continue these wide ranging respondent contacts throughout the authorization period of Pub. L. 94–482.

(t) Assurance that Respondents Will Have Sufficient Lead Time to Comply With Request: This clearance request is made well in advance of the time of collection and in accordance with Pub. L. 95–561 provisions for forms clearance. Additionally, there are no changes anticipated in the data requirements from the previous year.

(u) Specific Justification for a Multi-Year Approval: This multi-year notification basically fixes the requirements for Veds submission under Pub. L. 94–482. There are considerable costs associated with even minimal changes in an annual collection of the magnitude of VEDS. By assuring sufficient lead time and assuring State Boards of a constant requirement, it will be possible to provide Congress with more accurate and timely data with lower associated costs to the States.

Data Activity Plan Summary

(a) Title of Proposed Activity: National Survey of Elementary and Secondary School Finance.

(b) Name of the Sponsoring Agency/Bureau/Office: National Center for Education Statistics (NCES).

(c) Agency Number: NCES 2429.

(d) Justification: This survey is required to develop a data base for the Congressionally mandated studies of Pub. L. 95–561, Sections 1201 and 1203. Section 1201 of this mandate required NCES to prepare a biennial report on school finance "showing the degree to which each State has achieved equalization of resources for elementary and secondary education among the school districts within the State. A summary of these profiles shall show this equalization among the States." The information sought is not currently

available at the national level. Existing State Education Agency (SEA) data on Local Education Agency (LEA) finance are needed at the national level to provide more refined measures of disparities within and among the State than is possible using existing Federal data on LEA finances.

Section 1203 mandates the Secretary "to provide for: "(1) the availability of reliable and comparative data on the States and trends in financing elementary and secondary education; "(2) the conduct of studies necessary to understand and analyze the trends and problems affecting the financing of elementary and secondary education, both public and non-public, including the prospects for adequate financing during the next ten years; and "(3) the development of recommendations for Federal policies to assist in improving the equity and efficiency of Federal and State systems for raising and distributing revenues to support elementary and secondary education."

A draft of the *Study Plan for the Congressionally Mandated Study of School Finance,* dated July 1979 describing the studies in greater detail is available from Emerson Elliot, Project Director, HEW School Finance Project, c/o National Institute of Education, Washington, D.C. 20208.

(e) Description of the Survey Plan: The universe of State Education Agencies in the fifty (50) States, Puerto Rico and the District of Columbia, will be surveyed. The data requested are routinely collected by the States from LEA's and other sources. Information will be collected through mail questionnaires, and interviews where needed for purposes of clarification. Preliminary meetings with SEA officials are planned on a regional basis for Summer, 1980 to explain the survey and to work out details in assembling the data and information. A contractor, to be selected, will be responsible for the collection and processing of the data.

(f) Tabulation and Publication Plans: NCES will use the data for constructing composite profiles of fiscal disparity for publication as mandated. This report is due to Congress by September 30, 1981. Tapes containing the data will be made available to the public in Spring, 1981. The data will be used by the Secretary to complete a series of studies on education finance policy issues and to develop recommendations as mandated. Interim reports on policy issues, as outlined in Section 1203, are due to be submitted to Congress by December 31, 1981. The Secretary's final report to Congress is due December 31, 1982.

(g) Time Schedule For Data Collection and Publication:

(g) TIME SCHEDULE FOR DATA COLLECTION AND PUBLICATION:

Sept. 15, 1980—Mail Survey forms and instructions to SEA's
Nov. 15, 1980—Deadline for returning the requested survey information
Spring, 1981—Completion of data tapes, including validation, editing and documentation
Sept. 30, 1981—Publication of NCES Composite Profiles of Financial Disparity Report
Dec. 31, 1981—Secretary's Interim report to Congress
Dec. 31, 1981—Secretary's Final report to Congress

(h) Consultations Outside the Agency: The feasibility of the survey and the availability of the required data was ascertained through a six-State pilot study. The suggestions of the Committee for Evaluation and Information (CEIS), representing the Council of Chief State School Officers (CCSSO) were incorporated into the design of the pilot study and used in the design of the proposed survey. The findings of the pilot study are presented in a report entitled, *Data Availability and Comparability; Report of Equity Profile Pilot Study.* CEIS has been kept informed of the progress on this study since its inception. A broadly representative Presidentially appointed Advisory Panel of the School Finance project has reviewed the draft of the *Study Plan for the Congressionally Mandated Study of School Finance* data July, 1979, which includes references to this survey.

(i) Estimation of Respondent Reporting Burden: No SEA will be requested to collect data not already on file. Based on experience with similar data collection activities of this scope, the respondent burden is conservatively estimated to vary among the States from 80 to 120 person-hours per State. The higher number reflects the effort required if a site visit is conducted in the State. An estimated 20 States will be visited to assist them in assembling the required data and information.

Type of respondent	Number	Estimate of average person-hours
State education agency	52	100

Respondents will be compensated for costs incurred as provided for by Section 1202, P.L. 95–561.

(j) Sensitive Questions: None

(k) Estimated Cost to Federal Government: Not yet available.

(l) Detailed Justification of How Information Once Collected Will be Used: The information collected will be used by NCES in accordance with its mandate described in Section 1201 to develop composite profiles which present the disparities in school finance equalization within and among the States, taking into account the special needs of pupils, characteristics of teachers, geographical location, price differentials, and other variables. NCES will also use its experience with this data collection in cooperation with States to revise and simplify existing financial data requests and to make financial data more useful to the States. The Secretary (through the School Finance Project of NIE) will use the data to develop recommendations concerning the Federal role in education with special reference to the adequacy and equity of school finance; for the development and assessment of equity concepts and measures; for addressing such issues as interdistrict equity, taxpayers equity; and equity in the treatment of different categories of pupils and districts; interstate equity; capital costs; municipal overburden and teacher quality. The data will be used in a variety of economic models useful for analyzing the fiscal and distributional impacts of simulated changes in State and Federal policies and economics and in demographic and fiscal conditions. These models of school financial systems will provide quantitative and qualitative insights basic to the formulation of future policy recommendations.

(m) Methods of Analysis: A variety of appropriate statistical techniques will be used to analyze these data. Cross tabulations of the data aggregated at local, State and national levels for the main classifications consistent with the mandate will be performed. In addition, multivariate analysis, econometric and structural equation models will be used to study the fiscal effects of a variety of policy changes. In some cases, variables will be mathematically derived and then subjected to statistical analysis. Correlation, regression, and inferential or hypothesis testing techniques will be used such as ANOVA, ANCOVA and others.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: P.L. 95–561, Sections 1201 and 1203. See section (d) above.

(o) Time Table for Dissemination of Collected Data. Spring, 1981—Data tapes will be available for public use. Fall, 1981—Exposure draft to Composite Profiles of Financial Disparities. December 31, 1982—Secretary's Final Report to Congress.

(p) Estimate of The Total Person-Hours and Costs Required to Complete

the Request: Person-Hours: 5,200 Costs: $104,000.

(q) Evidence of any Urgent Need or Very Unusual Circumstances Requiring the Data: These data are needed for Congressionally mandated reports due September 30, 1981 and December 31, 1982. Unless these data are collected in the Fall of 1980 it will be impossible to meet these deadlines.

(r) Copy of the Exact Data Instruments: Copies of the data instruments may be obtained from Lee R. Wolfe, NCES, Room 3009, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: See H above.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request: Two and a half months are provided for the preparation of the requested information, i.e. Data Requested, September 15, 1980. Complete Response due November 15, 1980. Training session with NCES staff and the HEW School Finance Project are planned for August, 1980.

(u) Specific Justification for Multi-Year Approval: Not applicable.

Data Activity Plan Summary

(a) Title of Proposed Activity: The Coordination of Vocational Education and CETA Programs.

(b) Name of the sponsoring Agency/Bureau/Office: National Institute of Education/EP&O/LPM/Vocational Education Study.

(c) Agency Form Number: NIE 193(E).

(d) Justification: The subject of program coordination between Federal programs is gaining increasing Congressional attention. This study, to be funded by the Department of Labor, would attempt to uncover information concerning those programs funded by the Vocational Education Act of 1963, as amended and those funded under the Comprehensive Employment and Training Act of 1973, as amended. The data collected in the early stages of the project would be used to inform the Congress on this area of inquiry as mandated to the Institute in Sec. 523(b) of Pub. L. 94–482.

All current inquiries involving data collection on the coordination of CETA and vocational education deal with exemplary or ideal type programs. This proposed project will be the first attempt to document, through a stratified random sample of prime sponsors, normative behavior.

Furthermore, the data needed for such a study will involve original data collection efforts. This is necessary for several reasons. First, CETA is, by design, a decentralized system with most data remaining on the local level. Secondly, the factors involved in coordination, such as subcontracting and agreements, are not required to be reported to Washington by prime sponsors under current Department of Labor regulations. Furthermore, the study will inquire as to the behavior of organizations, not individuals in programs. Because the information is not uniform across prime sponsors or within LEA's where joint programs are conducted, interviews will range from 60 to 90 minutes.

(e) Description of Survey Plan: The study will involve surveying a stratified random sample of approximately 65 CETA prime sponsors to determine the extent of program coordination with LEA's located within prime sponsor jurisdiction. No more than three LEA's within any prime sponsor will be contacted. The survey will consist of interviews and content analysis of agreements and subcontracting documents. At this point in time, at least two community based organizations (CBOs) within each prime sponsor's jurisdiction will be surveyed to contrast the services they offer compared to LEA's.

(f) Tabulation and Publication Plans: Plans are incomplete at this time. Some early reports will be required on the state of the art of coordination mechanisms since this is required for the Vocational Education Study's mandated report to the Congress. A final report with legislative recommendations will also be required.

(g) Time Schedule for Data Collection and Publication: Data collection is tentatively scheduled to begin in January of 1981 and be completed by June of that year. A final report will be due in November 1981.

(h) Consultations Outside the Agency: For the past two years the Vocational Education Study has established a CETA-Vocational Education Coordination Study Group. Membership consists of thirty individuals from a variety of Federal and local offices that administer CETA or vocational education programs, researchers, and representatives from a variety of public interest groups. This group has been instrumental in identifying the availability of data for this study. Indeed, their knowledge has been instrumental in noting the need for this study, and also in assisting in its design.

(i) Estimation of Response Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Local education agencies	195	[1] 1–2
Federal agencies	[2] 2	[3] 1–2
Non-public junior colleges	65	[4] 1–2
Non-profit organizations	130	[4] 1–2
Vocational/technical/career postsecondary institutions	65	[4] 1–2
Pulic junior colleges	65	[4] 1–2
Other: CETA prime sponsors	65	[4] 5
Public elementary/secondary schools	65	[4] 1–2

[1] Per agency (administrators and supervisors).
[2] DOL and HEW.
[3] Per respondent (maximum of 100 respondents).
[4] Per respondent (administrators and supervisors).

NOTE.—That the scope of work for this study is still being prepared. These figures are estimates of maximum report burden only.

(j) Sensitive Questions: No sensitive questions will be included in the survey.

(k) Estimate of Cost to the Federal Government: Cost estimates cannot be provided at this time.

(l) Detailed Justification of How Information Once Collected Will be Used: The primary purpose of this study will be to acquire knowledge on the level and variety of program coordination mechanisms that currently exist between LEA's and prime sponsors to inform the Congress as they prepare to reauthorize the Vocational Education Act. The study is also planned to yield some knowledge as to how various types of organizations provide services to various populations of economically disadvantaged individuals.

(m) Method of Analysis: Data to be collected will be aggregated on the organizational level through the use of cross-tabulation and descriptive techniques.

(n) Legislative Authority Specifically Requiring on Allowing the Data Collection: The mandate for the study appears in Section 523(b) of the Education Amendments of 1976 (Pub. L. 94–482):

Section 523(b)(1) In addition to the other authorities, responsibilities, and duties conferred upon the National Institute of Education (hereinafter in this section referred to as the "Institute") by section 405 of the General Education Provisions Act, as amended by this Act, the Institute shall undetake a thorough evaluation and study of vocational education programs, including such programs conducted under the Vocational Education Act of 1963, and other related programs conducted under the Comprehensive Employment and Training Act of 1973 and by Postsecondary Commissions authorized by the Education Amendments of 1972 . . . .

(o) Time Table for Dissemination of Collected Data: The data will begin to

be ready for use in the summer of 1981. It will first appear in preliminary or draft reports.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request: Item (i), estimation of response burden, lists a maximum of 1,695 hours. Using an estimate of $7.00/hour as the dollar cost to respondent, the maximum estimate for this study will be $11,865.00.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Exact Data Instrument: Inquiries should be addressed to Dr. Rodney W. Riffel, Vocational Education Study, National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208.

(s) Brief Account of Early Involvement and Communications with Respondent Populations: Respondent populations have been heavily involved in the CETA and Vocational Education Study Group, mentioned in item (n) from whose meetings this study has been designed. Also separate discussions over the past two years have taken place with representatives of all respondent populations in order to determine the extent and location of data available to perform the proposed scope of work for this study.

(t) Assurance the Respondents will have Sufficient Lead Time to Comply with Request: Data collection will take place from January to May of 1981. Notification of site selection and scheduling of interviews will begin in November of 1980. No site will receive less than 60 days notice of intent to request interviews.

(u) Specific Justification for a Multi-Year Approval: Not applicable.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Survey of Scientific and Engineering Personnel Employed at Universities and Colleges, January 1981.

(b) Agency/Bureau/Office: National Science Foundation/Directorate for Scientific, Technological and International Affairs/Division of Science Resources Studies.

(c) Agency Form Number: NSF 724S.

(d) Justification: Section 3(a)(6) of the National Science Foundation Act of 1950 as amended calls for NSF * * * "to provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of * * * scientific and technical resources * * *."

The basic act also requires NSF "* * * to maintain a current register of scientific and technical personnel, and in other ways to provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States."

(e) Description of the Survey Plan: This is a short-form year in a biennial survey cycle of long and short forms. The 1981 short form will be mailed to approximately 320 doctorate granting universities and 18 federally funded research and development centers. A single survey item will include headcounts of full-time and part-time scientists and engineers by discipline, total full-time equivalents (FTE's), and FTE's involved in separately budgeted R&D activities.

(f) Tabulation and Publication Plans: Cross tabulations and trend analysis will be produced as part of an integrated computerized data file on academic science statistics. The tabulations will contain estimates for nonresponse so that a statistical population of academic scientists and engineers employed in doctorate-granting institutions will be produced. Publication will be in the format of NSF's "Highlights" and "Detailed Statistical Tables" series that are generally available to the public.

(g) Time Schedule for Data Collection and Publication: The forms will be mailed out by NSF in January 1981 and publication will take place during the summer of 1981.

(h) Consultation Outside the Agency: The data processing contractor has an advisory group on University Science Statistics that meets every two years. Advisors include academic officials, members of higher education associations, officials of other Federal agencies with education and science programs, and prominent users of the data.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Average person-hours
Institutions of higher education	320	4.0
R. & D. Centers	18	4.0

(j) Sensitive Questions: None.

(k) Estimate of Costs to Federal Government: Total estimated costs, including salaries of NSF survey staff and automated data processing contract funding, are $60,000.

(l) Detailed Justification of How Data Once Collected Will Be Used: The personnel survey if one of the four NSF higher education surveys of scientific and engineering activities which have been common-coded into an integrated Data Base. When combined with information derived from the other three surveys, the data collected here provide policy makers with statistics on the economic status of the academic sector and place higher education's role within the context of the national scientific effort. For example, the level of academic Scientific/engineering employment is an important factor in supply and utilization studies of scientists and engineers in the United States. This unique data system provides other inputs which are equally important in formulating national planning and policy regarding science and technology resources. More importantly, this information and the ability to provide it on a timely basis is currently unavailable from any other source.

(m) Methods of Analysis: These will consist of cross tabulations and trend analysis.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: See (d) above.

(o) Timetable for Dissemination of Collected Data: See (g) above.

(p) Estimate of Total Person-Hours and Costs Required To Complete the Request: 1,352 person-hours; $10,000 costs.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: N/A.

(r) Copies of the Exact Data Instrument: Copies of the exact data instrument may be obtained from: Dr. Richard M. Berry, UNISG, Division of Science Resource Studies, National Science Foundation, 1800 G Street NW., Room L-602, Washington, D.C. 20550.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: See (h) above. Also, two national studies of the reliability and validity of the statistics involving almost 100 respondent institutions were conducted in 1972 and 1978.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: The survey has been conducted for a number of years with very high response rates, i.e., 86 percent of all doctorate-granting universities responded to the 1979 survey.

(u) Specific Justification for a Multi-Year Approval: It is anticipated to be received by most institutions on a yearly basis without much variance in the questionnaire items. Thus, many respondents routinely assemble these data in anticipation of receiving the survey form.

Data Activity Plan Summary

(a) Title of Proposed Activity: Application for Nonprofit Organization Grants under the Emergency School Aid Act.

(b) Sponsoring Agency/Bureau/Office: U.S. Office of Education, Bureau of Elementary and Secondary Education, Equal Educational Opportunity Programs.

(c) Agency Form Number: OE Form 116.

(d) Justification: The ESAA regulations governing awards for nonprofit organization grants, 45 CFR Part 185, have been revised as a result of the Education Amendments of 1978, Pub. L. 95–561. Various changes have been made in the application to correspond with regulatory changes.

The application has been modified to eliminate information that the applicant is not required to submit. Two types of grants—Bilingual Projects and Special Mathematics Projects—have been eliminated from the regulations and thus deleted from this application.

The data collected will be used by the Office for Civil Rights and Office of Education to determine if the public or private nonprofit organization is eligible to apply for and receive assistance under Pub. L. 95–561 and if the applicant has met the requirements for all other assurances for ESAA.

(e) Description of Survey Plan: Not applicable.

(f) Tabulation and Publication Plans: Not applicable.

(g) Time Schedule for Data Collection and Publication: Generally closing date is December of each year.

(h) Consultations Outside the Agency: None.

(i) Estimation of Respondent Reporting Burden Type: Public and private nonprofit agencies, institutions or organizations.

Estimataed Number: 300.

Estimate of Average Person-Hours per Respondent: 35 hours.

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: Not applicable.

(l) Detailed Justification of how Information Collected will be Used: Each application for a nonprofit organization grant under the Emergency School Aid Act will be subject to the following reviews.

Eligibility/Assurances Review: The Office for Civil Rights (OCR) has the delegated authority to determine if the desegregation plan upon which the applicant bases its eligibility is actually a plan which requires the elimination, reduction or prevention of minority group isolation. The remaining ESAA assurances are verified by program personel responsible for administering the Emergency School Aid Act.

Recency Review: All applications will be ranked on a nationwide basis according to the recency of the implementation data of the school district's qualifying plan upon which the applicant bases its application.

Educational Quality Review: The educational quality score of each application will be determined by a non-Federal panel. The listing of prominent milestones outlined by the applicant will be used by OE personnel to track the relative progress of the project.

(m) Methods of Analysis: Not applicable.

(n) Legislative Authority Specifically allowing the Data Collection ". . . the Assistant Secretary . . . may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) in any State to carry out programs or projects designed to support the development or implementation of a plan described in section 606(a) (of Pub. L. 95–561)." (Pub. L. 95–561, section 608(b)); (20 U.S.C. 3198); (45 CFR 185.110).

(o) Timetable for Dissemination of Collected Data: Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request: (i) Person-hours: 10,500; (ii) Costs: $105,000.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Data Instrument: Copies may be obtained from: Elsie Janifer, Chief, Program Services Branch, Room 2006, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communication with Respondent Populations: None.

(t) Assurance that Respondents will Have Sufficient Lead Time to Comply With Request: Applicants for this program will be notified of the closing date for the transmittal of applications when the new notice of proposed rulemaking is published in the **Federal Register.**

(u) Specific Justification for Multi-Year Approval: Not applicable.

Data Activity Plan Summary

(a) Title of Proposed Activity: Application for Local Educational Agency Grants under the Emergency School Aid Act.

(b) Sponsoring Agency/Bureau/Office: U.S.Office of Education, Bureau of Elementary and Secondary Education, Equal Educational Opportunity Programs.

(c) Agency Form Number: OE Form 116–1

(d) Justificaton: The ESAA regulations, 45 CFR Part 185, have been revised as a result of the Education Amendments of 1978, Pub. L. 95–561. Various changes have been made in the application to correspond with regulatory changes.

The application has been modified to include five additional types of grants: Planning Grants; Pre-implementation Assistance Grants; Out-of-Cycle Assistance Grants; Special Discretionary Assistance Grants; Magnet School, University/Business Cooperation, and Neutral Site Planning Grants. Three types of grants—Bilingual Projects, Pilot Projects and Special Mathematics Projects—have been eliminated from the regulations and thus, deleted from this application.

The data collected will be used by the Office for Civil Rights and the Office of Education to determine if districts are eligible to apply for and receive assistance under Pub. L. 95–561 and if the applicant has met the requirements for all other assurances under ESAA.

(e) Description of Survey Plan: No response.

(f) Tabulaton and Publication Plans: No response.

(g) Time Schedule for Data Collection and Publication: No response.

(h) Consultations Outside the Agency: None.

(i) Estimation of Respondent Reporting Burden: Respondent Type; Local educational agencies. Estimated Number; 700. Estimated Average Person-Hours per Respondent; 34

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: Not applicable.

(l) Detailed Justification of how Information Collected will be used: Each application for a LEA grant under the Emergency School Aid Act will be subject to the following reviews.

(1) *Eligibility/Assurance Review:* The Office for Civil Rights (OCR) has been delegated authority to determine if districts are eligible to apply for and receive assistance under Pub. L. 95–561. The Office of Education is responsible for determining if the applicant has met the requirements for all other assurances.

(2) *Category of Recency Review:* All Basic Grant applications will be ranked within States to determine the recency of a school district's qualifying plan. Each application within the State will be placed into categories I, II or III according to the implementation date of the qualifying plan.

(3) *Statistical Data Review:* The net change in minority-group isolation or the net reduction in isolation between the base year and project year will be computed for Basic Grant and Magnet School applications.

(4) *Educational Quality Review:* The educational quality of each application will be determined by a non-Federal panel and suggestions will be made to the applicant for improving the quality. Applications found to be of poor quality will be returned to the LEA together with the reason for the determination of poor quality.

(m) Methods of Analysis: Not applicable.

(n) Legislative Authority Specifically Allowing the Data Collection:

(1) *Basic Grants* "The Assistant Secretary is authorized to make a grant to, or a contract with, a local educational agency—

"(A) which is implementing a plan—

"(i) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools, and which may, in addition, require educational activities in minority group isolated schools not affected by the reassignment of children or faculty under the plan in order to remedy the effects of illegal segregation; or

(ii) which has been approved by the Secretary as adequate under Title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; or

"(B) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

"(C) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement a plan—

(i) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(ii) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(iii) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 20 per centum, but not more than 50 per centum, of the enrollment consists of such children, or

(D) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who should not otherwise be eligible for enrollment becasue of non-residence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school district;" (Pub. L. 95–561, section 606(a)(1)(A), (B), (C) and (D)); (20 U.S.C. 3196); (42 U.S.C. 2000d); (45 CFR 185.30)

(2) *Special Projects Grants;*

(i) *Planning Grants* "The Assistant Secretary is authorized to make a grant to, or a contract with, a local educational agency—

". . . which is developing a plan of desegregation—

"(i) issued by a court of the United States or a court of any State, or any other State agency or official of compentent jurisdiction, or

"(ii) undertaken by such agency voluntarily, and which plan will require the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise will require the elimination or reduction of minority group isolation in such schools, or which has been approved by the Secretary as adequate under Title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools, and the period for such planning does not exceed two years." (Pub. L. 95–561, section 606(a)(1)(E); (42 U.S.C. 2000d); (45 CFR 185.40)

(ii) *Transitional Grants*

(A) *Preimplementation Assistance Grants;*

(B) *Out-of-Cycle Assistance Grants; and*

(C) *Special Discretionary Grants* ". . . the Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public and private nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of carrying out activities which the Assistance Secretary determines will make substantial progress toward achieving the purposes of this title . . ." (Pub. L. 95–561, section 608(a)); (20 U.S.C. 3198); (45 CFR 185.50)

(3) *Magnet Schools, University/Business Cooperation and Neutral Site Planning Grants* ". . . the Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public and private nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of carrying out activities which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title, including, but not limited to—

"(1) the planning for, design of, and conduct of programs in Magnet Schools;

"(2) the pairing of schools and programs with institutions of higher education and with businesses;

"(3) the development of plans for Neutral site schools;" (Pub. L. 95–561, section 608(a)); (20 U.S.C. 3191); (45 CFR 185.90)

(o) Timetable for Dissemination of Collected Data; Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request; Person-Hours: 23,800; Cost: $238,000.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Data Instrument. Copies of the data instrument may be obtained from: Elsie Janifer, Chief Program Services Branch, Room 2006, Equal Educational Opportunity Programs U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications with Respondent Populations; Local educational agencies (LEA) expected to apply for Basic grants in FY 1980 were requested to submit eligibility information to the regional Office for Civil Rights by October 15. Early submission of this information would allow the Office for Civil Rights with sufficient time to review the eligibility of applicants by March 1 as required under section 606(c) of Pub. L. 95–561. Any (LEA) applicant who responded to the early request was not required to submit the eligibility information again for the December deadline.

(t) Assurance that Respondents will have Sufficient Lead Time to Comply with Request: The December 7, 1979 deadline for Basic Grants and Magnet School, University/Business Cooperation and Neutral Site Planning Grants was published in the **Federal Register** on Thurdsay, August 23, 1979, Vol. 44, No. 165. The closing date for the transmittal of applications for the Planning grants, Pre-implementation Assistance, Out-of-Cycle assistance and Special Discretionary assistance grants was published in the **Federal Register** on Wednesday, December 19, 1979, Vol. 44, No. 245. Applications for these grant awards will be accepted at any time but

not too late to be processed by September 30, 1980.

(u) Specific Justification for Multi-Year Approval: (i) "An application of a local educational agency for assistance under this title may cover a period of from one to five years. (Pub. L. 95–561, section 610(e), 20 U.S.C. 3200)

Data Activity Plan Summary

(a) Title of the Proposed Activity: Application for State Agency Grants under the Emergency School Aid Act.

(b) Agency/Bureau/Office: U.S. Office of Education/Bureau of Elementary and Secondary Education/Equal Educational Opportunity Programs.

(c) Agency Form Number: OE Form 116–1A.

(d) Justification: The ESAA regulations governing awards under the Emergency School Aid Act, 45 CFR Part 185 have been revised as a result of the Education Amendments of 1978, Pub. L. 95–561. Under the new statutory authority, grants may be made to state agencies involved in or responsible for the desegregation of public elementary and secondary schools.

The requirements for a State agency grant are separate and distinct from other projects under ESAA and therefore, an application has been prepared to be used only by state agencies applying for such a grant.

(e) Description of Survey Plan: No response.

(f) Tabulation and Publication Plans: No response.

(g) Time Schedule for Data Collection and Publication: No response.

(h) Consultations Outside the Agency: None.

(i) Estimation of Respondent Reporting Burden.

(i) Type: State educational agencies or other State agencies.

(ii) Estimated Number: 55.

(iii) Estimated Average Person-Hours Per Respondent: 35 hours.

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: Not applicable.

(l) Detailed Justification of How Information Once Collected Will be Used: Each application for a State Agency grant under the Emergency School Aid Act will be reviewed to determine.

(i) Eligibility; and

(ii) Amount of the grant.

(m) Methods of Analysis: Not applicable.

(n) Legislative Authority Specifically Allowing the Data Collection: ". . . the Assistant Secretary shall carry out a program of making grants to State educational agencies, or other State agencies involved in or responsible for the desegregation of public elementary and secondary schools, to pay a portion of the cost of State activities related to—

"(A) planning (i) for the implementation of voluntary plans to eliminate or reduce minority group isolation in those schools, and (ii) to assess future needs, and to develop further strategies to meet those needs;

"(B) providing technical assistance to encourage local educational agencies or groups of those agencies to develop or implement voluntary plans to eliminate or reduce minority group isolation in those schools; and

"(C) providing training for educational personnel involved in developing or carrying out a voluntary plan to eliminate or reduce minority group isolation in those schools." (Pub. L. 95–561, section 608(c)(1)); (20 U.S.C. 3198); (45 CFR 185.120)

(o) Timetable for Dissemination of Collected Data: Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request:

(i) Person-Hours: 1,925.

(ii) Cost: $19,250.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of the Data Instrument: Copies of the data instrument may be obtained from:

Elsie Janifer, Chief, Program Services Branch, Room 2006, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communication with Respondent Populations: None.

(t) Assurance that Respondents will Have Sufficient Lead Time to Comply with Request: The December 7, 1979 closing date for State Agency Grants was published in the **Federal Register** on Thursday, August 23, 1979, Vol. 44, No. 165.

(u) Specific Justification for Multi-Year Approval: Not applicable.

Data Activity Plan Summary

(a) Title of Proposed Activity: Application for Grants for the Arts under the Emergency School Aid Act.

(b) Agency/Bureau/Office; U.S. Office of Education/Bureau of Elementary and Secondary Education/Equal Educational Opportunity Programs.

(c) Agency Form Number: OE Form 116–1B.

(d) Justification: The ESAA regulations, 45 CFR Part 185, have been revised as a result of the Education Amendments of 1978, Pub. L. 95–561. Various changes have been made in the application to correspond with regulatory changes. A separate application for Grants for the Arts reduces the complexity and burden of response on the applicant.

(e) Description of Survey Plan: Not applicable.

(f) Tabulation and Publication Plans: Not applicable.

(g) Time Schedule for Data Collection and Publication: Generally in December of each year.

(h) Consultations Outside the Agency: None.

(i) Estimation of Respondent Reporting Burden Type: Organizations other than schools or educational agencies.

Estimated Number: 23.

Estimate of Average Person Hours: 34 hours.

(j) Senstive Questions: Not applicable.

(k) Estimate of Cost to Federal Government: Not applicable.

(l) Detailed Justification of how Information Once Collected will be Used.

(i) *Enrollment Data Review:* The number of minority students predicted to be enrolled in the schools and participate in the project will be examined.

(ii) *Eligibility/Assurances Review:* The Office for Civil Rights has been delegated the authority to determine if districts are eligible to apply for and receive assistance under Pub. L. 95–561. The Office of Education is responsible for determining if the applicant has met the requirements for all other assurances.

(iii) *Educational Quality Review:* The educational quality of each application will be determined by a group of non-Federal panelists using the criteria outlined in the regulations. The listing of prominent milestones will be used by OE personnel to track the progress of the project.

(m) Methods of Analysis: Not applicable.

(n) Legislative Authority Specifically Requiring the Data Collection: ". . . the Assistant Secretary is authorized to make grants to, and contracts with state and local educational agencies, and other public and private nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of carrying out activities which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title . . ." (Pub. L. 95–561, section 608(a)); (20 U.S.C. 3198); (45 CFR 185.50)

(o) Timetable for Dissemination of Collected Data: Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request: Person-Hours: 782.

Cost: $7,820.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: Not applicable.

(r) Copy of Exact Data Instrument: May be obtained from: Elsie Janifer, Chief, Program Services Branch, Equal Educational Opportunity Programs, 400 Maryland Avenue, SW, Room 2006, Washington, DC 20202.

(s) Brief Account of Early Involvement and Communications with Respondent Populations: None.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request: The December deadline for the transmittal of ESAA applications is generally published in the Federal Register during August of the applicable grant year.

(u) Specific Justification for a Multi-Year Approval: Not applicable.

Summary of Data Activity Plan

(a) Title of the Proposed Activity: Financial Status Report and Program Performance Report for the Emergency School Aid Act and Title IV of the Civil Rights Act of 1964.

(b) Agency/Bureau/Office: U.S. Office of Education, Bureau of Elementary and Secondary Education, Equal Educational Opportunity Programs.

(c) Agency Form Number: OE Form 116–2.

(d) Justification: Information will be used to determine progress of the grantee in accomplishing project goals and objectives. In the consideration of multi-year applications for funding, information will be used as a factor in the determination of the applicant's past performance in accomplishing the objectives set by the applicant.

(e) Description of Survey Plan: Not applicable.

(f) Tabulation and Publication Plans: Not applicable.

(g) Time Schedule for Data Collection and Publication: Not applicable.

(h) Consultation Outside the Agency: None.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Local educational agencies	712	14
State educational agencies	55	14
Colleges and universities	58	15
Other State agencies (Arts)	23	14
Nonprofit organizations	40	14
Organizations other than schools or education agencies	34	14

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: Not applicable.

(l) Detailed Justification of How Information Once Collected will be Used: Data on the report will be used in program operation to monitor grantee progress for multi-year grants and determine whether or not to continue funding the project. Data for one-year projects will be used to measure the progress of the grantee in meeting the objectives of the project.

(m) Methods of Analysis: Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "(12) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Assistant Secretary may prescribe, including, in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives and (B) that the applicant will keep such records and afford such access thereto as—

"(i) will be necessary to insure the correctness of such reports and to verify them,

"(ii) will be necessary to insure the public adequate access to such reports and other written materials . . ." (P.L. 95–561, section 610(a)(12)); (20 U.S.C. 3200(a)(12)).

(o) Timetable for Dissemination of Collected Data: Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request: Person Hours: 12,966; Costs: $129,660.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: None.

(r) Copy of the Exact Data Instrument: Copies may be secured from Elsie Janifer, Chief Program Services Branch, EEOP, Room 2006, U.S. Office of Education, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: A sample of 6 to 9 ESAA grantees were contacted in February 1979 through a telphone survey. They were asked to estimate the amount of time required to complete the program performance report and the financial status report forms. They were also asked to make any comments or suggestions regarding the forms. Their responses were used to estimate the number of hours of response burden.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request: The respondents are notified of the reporting requirement by the Grant and Procurement Management Division at the time the grant is made. Notification is mailed by the Grant and Procurement Management Division at least 30 days prior to the date the report is due.

(u) Specific Justification for a Multi-Year Approval: Not applicable.

Data Activity Plan Summary

(a) Title of proposed activity: Application for Veterans' Cost-of-Instruction Payments.

(b) Agency/Bureau/Office: U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Student Services and Veterans Programs.

(c) Agency form number: OE 269.

(d) Justificaiton: Public Law 89–329, Higher Education Act of 1965, as amended, Title IV, Section 420, Veterans' Cost-of-Instruction Payments to Institutions of Higher Education, provides payments to postsecondary institutions based on the number of veterans receiving vocational rehabilitation or educational assistance for undergraduate study and the number of veterans who have participated in special pre-discharge or remedial programs subsidized by the Veterans Administration. An institution receiving funds must establish and maintain a full-time office of veterans' affairs and provide the services mandated in Section 420 (c)(1)(B) of the Act. An institution shall be eligible to receive such payments to which it is entitled under this Section only if it makes application therefor to the Commissioner (20 U.S.C. 1070e–1).

(e) Description of survey plan: NA.

(f) Tabulation and publication plan: NA.

(g) Time schedule for data collection and publication: April—yearly.

(h) Consultation outside the agency: NA.

(i) Estimation of respondent reporting burden: Respondent Type: Institutions of higher education; Number: 1,200; Estimate of Average person-hours: 1.0.

(j) Sensitive questions: NA.

(k) Estimate of cost to Federal Government: NA.

(l) Justification of how information once collected will be used: The information submitted on the Application will be used to determine an institution's eligibility to participate in the Veterans' Cost-of-Instruction Payments Program.

(m) Methods of analysis: NA.

(n) Legislative authority specifically requiring or allowing the data collection: Section 420 (c)(1) of the Higher Education of 1965, as amended, states that "An institution of higher education shall be eligible to receive the payment to which it is entitled under this section

only if it makes application therefor to the Commissioner. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Commissioner determines necessary to carry out his function under this title . . ."

(o) Timetable for dissemination of collected data: NA.

(p) Estimate of the total person-hours and costs required to complete the request: Person-Hours: 1,200; Costs: $12,000.

(q) Evidence of any urgent need or very unusual circumstance requiring the data: NA.

(r) Copy of the exact data instrument: May be obtained from: Dorothy C. Parker, U.S. Office of Education, Veterans' Program Branch, 400 Maryland Avenue, SW., Room 3514, ROB No. 3, Washington, D.C. 20202.

(s) Brief account of early involvement and communications with respondent populations: Form is mailed to the universe of postsecondary institutions by April 10 of each year, after publication in the Federal Register.

(t) Assurance that respondents will have sufficient lead time to comply with request: NA.

(u) Specific justification for a multi-year approval: The Application is a routine administrative form which has been in use since 1973 and has been used successfully, in accordance with the statute (Section 420 of the Higher Education Act of 1965, as amended).

Data Activity Plan—Summary

(a) Title of proposed acitivity: Financial Status and Performance Report—Veterans' Cost-of-Instruction Payments Program.

(b) Agency/Bureau/Office: U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Student Services and Veterans Programs.

(c) Agency form numbers: OE 269–1 and OE 269–2.

(d) Justification: Public Law 92–318, Higher Education Act of 1965 (as amended), Title X, Section 420, titled Veterans' Cost-of-Instruction Payments to Institutions of Higher Education, provides payments to postsecondary institutions based on their undergraduate veteran enrollment. Payments are based on the number of veterans receiving vocational rehabilitation or educational assistance for undergraduate study and the number of veterans who have participated in special predischarge or remedial programs subsidized by the Veterans Administration. An institution receiving funds must establish and maintain a full-time Office of Veterans' Affairs and provide the services mandated in Section 420(c)(1)(B). Section 189.33 of the Regulations specifies that "within 90 days of the expiration of the academic year for which such assistance was awarded . . . an institution or consortium . . . shall submit a full account of funds expended, obligated and remaining." The Standard Form 269, OMB No. 80–R0180 will be used to obtain these data.

Items requested in the Performance Report are required either by statute or regulation. Section 189.35 of the Regulations specifies that an annual report be submitted from each participating higher education institution "no more than 30 days after the close of each academic year" to measure program performance in accordance with the criteria established in Section 189.16 and jointly prescribed by the Commissioner of Education and the Administrator of the Veterans Administration.

(e) Description of survey plan: Standard Form 269, OMB 80–R0180, will be used to reflect the financial status of the Veterans' Cost-of-Instruction Payments Program, including the institutional share of Federal funds used for instructional purposes. The Performance Report is designed to secure information on the legislatively required services: Outreach; recruitment; special education; counseling. These are standard forms and will not be subject to change over the years.

(f) Tabulation and publication plans: None.

(g) Time schedule for data collection and publication: July and September—yearly.

(h) Consultations outside the agency: None.

(i) Estimation of respondent reporting burden: Respondent Type: Institution of higher education; Number: 1,200; Estimate of Average Person hours: 1.5.

(j) Sensitive questions: None.

(k) Estimate of cost to Federal Government: Approximate cost for manpower, printing, and distribution=$8,000.

(l) Justification of how information once collected will be used: Financial Status Report—Information will be used as the basis for determining project compliance with eligibility criteria imposed by program legislation: as an effective measure of project accountability as indicated by project accomplishments. Data report by participating institutions are used by the branch to insure full accountability for Federal funds awarded and to generate DFAFS/OEFMIS reconciliation computer tapes. Performance Report—Performance information is used to (1) develop profiles describing institutional services for veterans, the Office of Veterans' Affairs and demographic characteristics; (2) identify differences and similarities in institutions' veteran assistance programs; and (3) describe the degree to which institutions have met the major criteria listed in the Regulations.

(m) Methods of analysis: NA.

(n) Legislative authority for this activity: "Section 419 (c)(1)(A)(iv), the applicant will submit to the Commissioner such reports as the Commissioner may require by regulation; and * * *" (Pub. L. 92–318; 20 U.S.C. 1070e; 1070e–1).

(o) Timetable for dissemination of collected data: NA.

(p) Estimated costs and person-hours to the respondents: Professional 60 mins. @ $10.00=$10; Clerical 30 mins @ $4.00=$2.00; Total Cost to Respondents=$8800.00.

(q) Evidence of urgent need or very unusual circumstance requiring data: NA.

(r) Name and address of individual or office from which a copy of the full plan and the data instrument(s) may be obtained: Dorothy C. Parker, U.S. Office of Education, Veterans' Program Branch, 400 Maryland Avenue, SW., Room 3514, ROB #3, Washington, D.C. 20202.

(s) Early involvement and communications with respondents: Information is sent in June of each year to respondents.

(t) Month and year data collection is planned: July and September—yearly.

(u) Specific justification for multi-year approval: These are standard forms and will not be subject to change over years.

Data Activity Plan Summary

(a) Title of Proposed Activity: Veteran Student Enrollment Verification.

(b) Agency/Bureau/Office: U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Student Services and Veterans Programs.

(c) Agency Form Number: OE 269–3.

(d) Justification: Public Law 89–329, Higher Education Act of 1965, as amended, Title IV, Section 420, Veterans' Cost-of-Instruction Payments to Institutions of Higher Education, provides payments to postsecondary institutions based on their undergraduate veteran enrollment. Payments are based on the number of veterans receiving vocational rehabilitation or educational assistance for undergraduate study and the number of veterans who have participated in special pre-discharge or remedial

programs subsidized by the Veterans Administration. An institution receiving funds must establish and maintain a full-time Office of Veterans' Affairs and provide the services mandated in Section 420 (c)(1)(B) of the Act.

Items requested in the Veteran Student Enrollment Verification Report are required by Statute and Regulation. Section 420 (d)(1) of the Act states: "The Commissioner shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section. Payments under this subsection shall be made in not less than three installments during each academic year and shall be based on the actual number of persons on behalf of whom such payments are made in attendance at the institution at the time of the payment." Section 189.3(2)(b) of the regulations specifies that "a cost-of-instruction payment for a given academic year shall, . . . be based on the number of students in attendance on April 16 of the preceding academic year and October 16 and February 16 of the given year . . . subject to the availability of funds,". Participating institutions are entitled to use no more than one-third of the total award between July 1 and October 16. Further expenditure for the next two periods are authorized only upon the receipt and approval of the data submitted in the Veteran Student Enrollment Verification Form.

(e) Description of Survey Plan: NA.

(f) Tabulation and Publication Plans: NA.

(g) Time Schedule for Data Collection and Publication: See item (d).

(h) Consultation Outside the Agency: NA.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Institutions of higher education.....	1,200	1.0

(j) Sensitive Questions: NA.

(k) Estimate of Cost to Federal Government: NA.

(l) Justification of How Information Once Collected Will Be Used: This information will be used to verify continued funding from the initial award made on the basis of the number of undergraduate veterans in attendance at institutions of higher education on April 16.

(m) Methods of Analysis: NA.

(n) Legislative Authority Specifically Requiring or Allowing Data Collection: "Section 420(d)(1), payments under this subsection shall be based on the actual number of persons on behalf of whom such payments are made in attendance at the institution at the time of the payment." (Pub. L. 92–318; 20 U.S.C. 1070e; 1070e–1)

(o) Timetable for Dissemination of Collected Data: NA.

(p) Estimated Costs and Person-Hours to the Respondents: Person-Hours: 1,200, Costs: $14,400.

(q) Evidence of Urgent Need or Very Unusual Circumstance Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: May be obtained from: Dorothy C. Parker, U.S. Office of Education, Veterans' Programs Branch, 400 Maryland Avenue, S.W., Room 3514, ROB #3, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications with Respondent Populations: Form is mailed to the chief administrative officer of participating institutions.

(t) Assurance that Respondents Will Have Sufficient Lead Time to Comply With Request: Forms are sent to institutions at beginning of school year.

(u) Specific Justification for a Multi-Year Approval: In accordance with the Rules and Regulations governing the Veterans' Cost-of-Instruction Payments Program (Section 420 of the Higher Education Act of 1965, as amended), payments are made three times a year based on undergraduate student and eligible undergraduate veteran student enrollments. Form has been used successfully by respondents since 1974.

Data Activity Plan Summary

(a) Title of Proposed Activity: Request for Payment of BEOG Award 1980–81 Academic Year.

(b) Agency/Bureau/Office: Office of Education/Bureau of Student Financial Assistance/Division of Program Operations/Basic Grant Branch.

(c) Agency Form Number: OE 304.

(d) Justification: The Basic Educational Opportunity Grant Program is a program of student financial aid which was authorized by Title IV, Part A, of the Educational Amendments of 1972 (Pub. L. 92–318) and the Educational Amendments of 1976 (Pub. L. 94–482). This program was established to guarantee a minimum amount of resources to eligible students who wish to attend postsecondary institutions.

The "Request for Payment of BEOG Award" will be submitted by students to an Office of Education contractor in those cases where the institution in which the student is enrolled has decided not to act as a disbursing agent for the U.S. Commissioner of Education. The "Request" form is the means by which a student will submit information to the Commissioner in order to receive payment of an award.

Part A/*Identification*: This information is required for purposes of correspondence, as well as to identify the applicant for subsequent requests for payments. This will also be used in those cases where the student changes addresses during the course of the school year, so as to ensure that contact can be maintained with the recipient.

Part A/*Request for Payment/Student Affidavit*: This item is necessary to determine whether or not the student wishes to use his BEOG award at the particular school he is enrolled. It also certifies that the student is not in default or owed a refund from the BEOG Program, NDSL, SEOG, GSL or State Student Incentive Program as required by law (20 U.S.C. 1088f, Sec. 132, Sec. 497 of the Act).

This item is also required by law (20 U.S.C. 1082, 1088g) to attest to the fact that the student is or will be receiving funds toward the cost of his education, which is the purpose of the BEOG Program and that such funds should be spent for educational purposes only. If the student should terminate his enrollment for any reason during an award period, then the FAO/Student is responsible for notifying the U.S. Commissioner in writing of this fact. All the above requirements are met by having the applicant sign this form in the presence of a notary. The Student Affidavit is required for all student financial aid programs under the USOE.

Part B/*Identification:* This information is necessary to verify that the institution is both eligible and participates under the Alternate Disbursement System of payment.

Part B/*Transfer Data:* Item 7 has been added in order to comply with the provisions of Section 168.14(c), Subpart B, Standards Regulations Relating to Audits, Records, Financial Responsibility, Administrative Capability and Institutional Refunds, dated September 28, 1979. It states: ". . . (c) If a student indicates that he or she attended another institution, the institution the student is currently attending shall, before disbursing any Title IV funds (including Guaranteed Student Loan checks) to that student, obtain a certified financial aid transcript from the institution or institutions the student previously attended."

Part B/*Data for Calculation of Award:* Items 10–12 are necessary to calculate the students Basic Grant award.

Item 10/*Institutions Academic Calendar:* Will be used to determine the type of calculation of award.

Subitem 10A/*Clock Hour Institutions:* (1), (2), (3), (4) and (5) process awards for students whose academic progress is measured by the number of daily-weekly clock hours or credit hours completed but not divided into regular quarters, semesters or trimesters. These subitems are needed to comply with the Proposed Rulemaking, Volume 43, Number 94, Part II dated May 15, 1978 and to implement the requirements mandated by the Education Amendments of 1976. Subitem 10A (1) has been added to save the financial aid officer from having to complete and submit to the processor a copy of the OE Form 304–1 from the preceding award period indicating when the student completed the hours for which he/she was paid during that period. A student cannot be paid until those hours have been completed. This information is also necessary to verify subsequent requests for payments.

Subitem 10B/*Term Based Institutions:* These subitems are required to collect the dates and enrollment status for the first award period in which the student is enrolled to receive his initial BEOG payment. This section also provides for the proration of awards to students who are enrolled on less than a full-time basis.

Item 11/*Termination Dates:* This item is provided to identify those students who drop out of school and to provide for an accurate calculation of their award based on their exact hours or dates of enrollment. The ending date is being requested to determine the exact number of days at a term based school that a student is to be paid for.

Item 12/*Student Cost Information:* These items are necessary to calculate total student costs, which must be used in the determination of the applicant's award.

Item 13/*Certification by Institutional Official:* This section is required for determination that, according to the best knowledge of the institution, the applicant meets the eligibility requirements set forth in the regulations for the Program and that he or she is maintaining satisfactory progress as established by each institution. Included are statements of fact needed to confirm that the "Request" is valid.

The above amendments have been made in the administration of payments to prevent abuse both by the student, recipients and institutions. They have been developed in an effort to achieve a balance between good program control and administration of the program which would not be overly burdensome to the institution. The proposed rule revises and consolidates all existing program regulations other than those contained in the Family Contribution Schedules.

(e) Description of Survey Plan: Not Applicable.

(f) Tabulation and Publication Plans: Not Applicable.

(g) Time Schedule for Data Collection and Publication: Summer of 1980.

(h) Consultations Outside the Agency: American College Testing/Edgardo Ring/Roy Watson. In an effort to improve the processing of awards under the Alternate Disbursement Section we have had the institutions involved in using this form provide us with comments or criticisms regarding it after its use each year.

(i) Estimation of respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
(1) BEOG Recipient	24,000	15 minutes.
(2) Financial Aid Officers	750	35 minutes.

(j) Sensitive Questions: None.

(k) Estimate of Cost to Federal Government: $9,200.

(l) Detailed Justification of How Information Once Collected Will Be Used: *Program Management:* The "Request" form is the means by which a student submits information to OE in order to receive payment of an award. This information is required for purposes of correspondence as well as to identify the applicant for subsequent requests for payments.

(m) Methods of Analysis: Not Applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: Pub. L. 94–482. Title IV Student Assistance of Higher Education Act as amended. Section 411 ". . . (3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Commissioner for such purposes, in such manner as will best accomplish the purpose of this section." (20 U.S.C. 1070a)

(o) Timetable for Dissemination of Collected Data: Not Applicable.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request:

Respondent type	Person-hours	Cost
(1) BEOG Recipient	[1] 15	$1.25.
(2) Financial Aid Officer	[1] 35	None.

[1] Minutes.

(q) Evidence of Any Urgent Need or Very Unusual Circumstances Requiring the Data: Not Applicable.

(r) Copy of the Exact Data Instrument: A copy of the exact form maybe obtained from: BSFA/DPO/BGB/ Alternate Disbursement Section, Room 4651 ROB–3, 400 Maryland Avenue S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: The OE 304 has been used as the instrument to effect the payment of the BEOG award to students at ADS institutions since the implementation of the Basic Grant Program. Any additions or changes are published in the Federal Register prior to publication for public comment.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request: The request for payment forms are to be made available the summer of 1980 and the deadline for submission of this form is May 31, 1981 or before the end of the school's academic year whichever is earlier.

(u) Specific Justification for a Multi-Year Approval: Program Regulations mandate that students are eligible to receive their Basic Grant Awards at the beginning of the award period each year. Multi-year approval would permit a more expeditious dissemination of the forms to the students receiving awards under the ADS System and payment of award on schedule.

Data Activity Plan Summary

(a) Title of the Proposed Activity—Financial Status Report and Performance Report for Vocational Education Discretionary Grants.

(b) Name of the Sponsoring Agency/ Bureau/Office—U.S. Office of Education, Bureau of Occupational and Adult Education.

(c) Agency Form Number—OE Form 360.

(d) Justification—The reports are the basic means by which a grantee communicates to the federal project officer what progress is being made on a project funded under the four vocational education programs which are administered by the Bureau of Occupational and Adult Education on a direct project grant basis. These programs are the Vocational Graduate Leadership Development Program, the Bilingual Vocational Training Program, the Bilingual Vocational Instructor Training Program, and the Vocational Education Program for Indian Tribes and Tribal Organizations. This reporting mechanism for grantees is prescribed by OMB Circulars No. A–102 and No. A–110.

(e) Description of Survey Plan—Not applicable.

(f) Tabulation and Publication Plans—Not applicable.

(g) Time Schedule for Data Collection and Publication—Not applicable.

(h) Consultations Outside the Agency—The report form has been coordinated with the Committee on Evaluation and Information Systems of the Council of Chief State School Officers.

(i) Estimation of Respondent Reporting Burden—

Respondent type	Number	Estimate of average person-hours
Colleges and universities	25	8
Nonprofit organizations	10	8
Other (Indian tribes and tribal organizations)	35	8

(j) Sensitive Questions—None.

(k) Estimate of Cost to Federal Government—The total cost to the Federal Government is approximately $3,000.

(l) Detailed Justification of How Information Once Collected Will Be Used—The reports will be used to monitor the performance of grant-supported projects and will constitute a formal, certified record to account for the expenditure of federal funds.

(m) Methods of Analysis—Not applicable.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection—"74.73 . . . Grantees shall use Standard Form 269, Financial Status Report, to report the status of funds for all nonconstruction grants . . ." "74.82 . . . (b) . . . grantees shall submit annual performance reports unless the granting agency requires quarterly or semiannual reports . . ." (Chapter 45, Code of Federal Regulations, Part 74).

(o) Timetable for Dissemination of Collected Data—Not applicable.

(p) Estimate of the Total Person-Hours and Costs Required To Complete the Request—560 hours; $16,500.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data—Not applicable.

(r) Copy of the Exact Data Instrument—A copy of the data instrument can be obtained by writing Mr. Eugene Long, BOAE/LMS, ROB No. 3, Room 5636-C, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations—Since this report has been used for a number of years in substantially its present form, no involvement with respondent populations has been sought for its use during the 1980-81 school year.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request—The reporting instructions are mailed to the grantee as a part of the grant award document. The grantee, therefore, is aware of what the reporting requirements are before the project begins.

(u) Specific Justification for a Multi-Year Approval—Grantees will be reporting on projects funded under the authority of the current Vocational Education Act through approximately August, 1983. Approval for the use of this form will be requested to extend through that date.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Financial Status and Performance Reports for Adult Education State Grant Programs.

(b) Name of the Sponsoring Agency/Bureau/Office: U.S. Office of Education, Bureau of Occupational and Adult Education, Division of Adult Education.

(c) Agency Form Numbers: OE 365; — 1.

(d) Justification: Health, Education, and Welfare Administrative Regulations for the Administration of Grants (45 CFR Part 74, subparts I and J) requires that grantees annually report the status of funds and the performance of activities conducted under the grant. Accordingly, financial and performance reports on activities carried out by Adult Education State Grant Programs (funded under the Adult Education Act of 1966, as amended) are to be submitted annually to the U.S. Office of Education, Division of Adult Education.

(e) Description of Survey Plan: NA.

(f) Tabulation and Publications Plans: The data from performance reports will be compiled, summarized and published by the National Center for Education Statistics in the *Adult Basic and Secondary Education Program Statistics*. Information obained from financial reports will be compiled by the Division of Adult Education; however, there are no plans to publish these data.

(g) Time Schedule for Data Collection and Publication: Data are systematically collected from local agencies at the end of the fiscal year, summarized by the State, and submitted to the Division of Adult Education 90 days after the end of the fiscal year (December 31).

(h) Consultations Outside the Agency: In order to obtain input on the suitability of data collections a 16 member data advisory group was established by 1) selecting one adult education State person from each HEW region to represent the directors of Adult Education State grant programs and 2) involving representatives of adult education national organizations and advisory council, and NCES. This group reviews and comments on adult education data collection instruments developed by the U.S. Office of Education, Division of Adult Education.

(i) Estimation of Respondent Reporting Burden: It is estimated that approximately 80 person-hours will be required to gather data and complete the proposed reporting forms. This estimate is based on the experience of prior years when the annual program reports required similar data. This estimate includes consideration of time needed to gather and compile data as well as complete forms.

Respondent type	Number	Estimate of average person-hours
Adult education administrators	57	80

(j) Sensitive Questions: The adult education data collection instruments do not contain any questions of a sensitive nature.

(k) Estimate of Cost to Federal Government: The cost to the Federal Government involves $3,000 for the development of forms, $700 for printing forms, $24,000 for processing and analyzing data and printing publication.

(l) Detailed Justification of How Information Once Collected will be Used:All data and information proposed for collection are needed primarily for the purposes of assessing program effectiveness and, therefore, will serve principally as a program tool (1) for determining the extent to which States are progressing with the implementation of the Adult Education Act, (2) for identifying problem areas in the program which require technical assistance, (3) for making information available to Federal, State, and local educational agencies for purposes of program planning. Such data are also used to determine the responsiveness of the Adult Education State Grant Program to the educational needs of undereducated adults. The information will, in turn, provide the basis for initiating changes in national priorities, program policies, and the redirection of resources to ensure the availability of funds for diverse educational needs.

Data of this type, and specific to the Adult Education State Grant Program, are not available from other sources and, therefore, must be collected with the proposed instruments.

(m) Methods of Analysis: NA.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "Grantees shall use Standard Form 269, Financial Status Report, to report the status of funds for all nonconstruction grants." (Sec. 74.73(a) of 45 CFR Part 74, HEW's Administrative Regulations for the Administration of Grants.)

". . . grantees shall submit annual performance reports . . ." (Sec. 74.82(b) of 45 CFR Part 74, HEW's Administrative Regulations for the Administration of Grants.)

(o) Timetable for Dissemination of Collected Data: States are required to submit the Financial Status and Performance reports 90 days after the end of the fiscal year. Data verification, processing, and compilation require approximately three months; therefore, data are usually available to users in March.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request: With the 57 State programs individually expending 10 person-hours to complete the Financial Status Report, it is estimated that 570 total person-hours are required at a total cost of approximately $2,200. The 57 State programs each spend 70 person-hours completing the Performance report; therefore, it is estimated that a total of 3,990 person-hours are required at a total cost of $15,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: A copy of the data instruments may be obtained from Mrs. Sharon A. Jones, U.S. Office of Education, Division of Adult Education, Room 5060, 7th and D Streets, S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: In March of 1979, a meeting was held with the data advisory group (see item h) to have preliminary discussions of the types of data needed for assessing the effectiveness of adult education programs. During November and December of 1979, four area workshops were held in which personnel from the 57 Adult Education State Grant Programs were provided an opportunity to comment on proposed data elements.

(t) Assurance that Respondents Will Have Sufficient Lead Time to Comply with Request: The Financial Status and Performance Reports will be used to report on activities in the Adult Education State Grant Program during Fiscal Year 1981 (July 1 through Sept. 30). The reports are to be submitted to the Division of Adult Education on December 31.

It is anticipated that the proposed reporting instruments will be distributed to Adult Education State offices in February. This will give States four months in which to prepare for the collection of data. Many of the data items on both instruments have been on the reporting forms for several years; therefore, States are already prepared to collect this information.

(u) Specific Justification for a Multi-Year Approval: Adult Education State Grant Programs have been using the Financial Status and Performance Reports since 1974. Both reports are routine administrative forms which have been used successfully in the past.

Data Activity Plan Summary

(a) Title of Proposed Activity: Educational Opportunity Centers Financial Status and Performance Reports.

(b) Name of the Sponsoring Agency/Bureau/Office: U.S. Office of Education, Bureau of Higher and Continuing Education, Division of Student Services and Veterans Programs.

(c) Agency Form Number: OE 366.

(d) Justification: (1) The Higher Education Act of 1965 (Pub. L. 89–329, as amended) authorizes a program of paying up to 75 per centum of the cost of establishing and operating Educational Opportunity Centers which serve areas with major concentrations of low-income populations. The Center's purpose is to help clients through counseling, tutoring, and referral services to pursue post-secondary education. The need for reporting project performance is established in subparts I and J of OMB Circular A–110. As prescribed by section 74.82(c) of subpart J, a comparison of actual accomplishments to the goals established for the period is requested. Participant information is requested to determine if the program is meeting the needs of the target population as stated in Chapter I of the Code of Federal Regulations, Part 154. In conformance with subpart I of OMB Circular A–110, Standard Form 269 is included in order to report on a project's financial status.

(2) The information will be used by the Education Department and project directors (a) to assess and monitor project effectiveness, and (b) to determine if the program is meeting the needs of the target populations intended and as a corollary to provide base information for planning future program needs and modification.

(3) There is no similar data already available in the subject field which could be used for these purposes.

(4) The Financial Status Report is required by regulations stated in OMB Circular A–110, Subpart I, section 74.70(a) and 74.73(a) which appear below:

74.70 Scope and applicability of subpart. "(a) This subpart prescribes requirements and forms for grantees to report financial information to HEW, and to request grant payments when a letter of credit is not used."

74.73 Financial Status Report "(a) Form. Grantees shall use Standard Form 269, Financial Status Report, to report the Status of funds for all nonconstruction grants."

The Performance Report is required by OMB Circular A–110, Subpart J, Section 74.82(b) and (c) which appear below:

(b) Except as provided in paragraph (a) of this section, grantees shall submit annual performance reports unless the granting agency requires quarterly or semiannual reports.

(c) The content of performance reports shall conform to any instructions issued by the granting agency, including, to the extent appropriate to the particular grant, a brief presentation of the following for each program, function, or activity involved:

(1) A comparison of actual accomplishments to the goals established for the period. Where the output of the project or program can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information will be useful.

(2) The reasons for slippage if established goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of unexpectedly high overall or unit costs.

(e) Description of Survey Plan: (1) Each Education Opportunity Center receiving a federally funded grant is required to submit a *Financial Status Report* and a *Performance Report* which must be signed and dated by the Project Director. An Estimated 27 Educational Opportunity Centers will receive grants in the program year 1980–81 and will be required to respond to this form.

(2) Computer Sciences Corporation, our current data preparation contractor, is responsible for mailing report forms, logging in and editing reports, keypunching, and compiling data.

CSC is aware of the impact o the Privacy Act of 1974 on the handling of OE data, and is in full compliance with it. Strict confidentiality is observed in the processing and filing of sensitive material, and reproduction of such material is performed according to Industrial Security Manual (ISM) standards in a locked room, with only those persons with appropriate

clearance and need-to-know permitted. Requests for information, if any, are referred to OE.

(f) Tabulation and Publication Plans: (1) A computer generated report will be published in January.

(2) The report will give data for each individual project and a national summary.

(g) Time Schedule for Data Collection and Publication: (1) Report forms are sent to the project directors in May. Reports are due on a staggered basis depending on the ending date of the grant period. In accordance with the Education Division General Administrative Regulations the Educational Opportunity Centers are required to submit the *Financial Status Report* and the *Performance Report* as follows:

Report	Form	Period covered	Due date	Projects required to report
Annual Performance	366	Beginning to end of budget year just completed	30 days after end of budget period	Multiyear projects not in final year.
Financial Status	269	Beginning to end of budget year just completed	30 days after end of budget period	Multiyear projects not in final year.
Final Performance	366	Beginning to end of budget period just completed	90 days after end of budget period	Multiyear projects in final year and single-year projects.
Financial Status	269	Cumulative for entire single or multiyear grant period.	90 days after end of budget period	Multiyear projects in final year and single-year projects.

(2) The summary report is completed in January which is one month after the last reports are due.

(h) Consultations Outside the Agency: (1) Annual workshops are held for project directors at which time the completion of required forms is discussed. The Office of Education welcomes any suggestions that these persons may have. There have not been any problems on which agreement could not be reached.

(2) NA.

(3) NA.

(i) Estimation of Respondent Reporting Burden: It is estimated that 27 projects will be funded for program year 1980–81. Since this is a discretionary grant that will not be funded until May, there is no accurate way to predict the respondent types. Therefore, an estimated breakdown by respondent type for program year 1980–81 is given below which uses percentage breakdowns that occurred in program year 1979–80.

Respondent type	Number	Estimate of average person-hours
Adult education administrators	1	4
Colleges and Universities	16	4
Nonprofit organizations	8	4
State institutions	1	4
Vocational/technical/career postsecondary institutions	1	4

(j) Sensitive Questions: Because no individual student data are collected, and no questions of a sensitive nature are asked, this section is not applicable to the report form.

(k) Estimate of Cost to Federal Government: (1) It is estimated that the annual cost of this form is approximately $1,632. This includes $1,300 for editing, coding, tabulating, and publication of results and $332 for printing and mailing.

(2) N/A.

(3) N/A.

(4) N/A.

(l) Detailed Justification of How Information Once Collected Will Be Used: *Program Management:* The proposed data acquisition activity is intended to serve as a basis for compliance review and for accountability to Congress under Pub. L. 89–329, IV Section 417B. The data collected will be used in assessing program effectiveness and in the observation of trends in the program to determine what program changes are needed.

General Purpose: Data will be used by the Education Department, project directors, Congress, and by the general public. An example of an issue that the data illuminates is the success or accomplishments of the program. This is indicated by the number of participants who either began or were accepted in postsecondary studies since entering the program.

(m) Methods of Analysis: Data are published by project and then summarized in a national total. Proposed methods of analysis include: correlations, tests of significance, and analysis of variance.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: Legislative authority comes from the General Education Provisions Act, Section 434(b)(3)(C) which states:

In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall . . .

(C) provide for making such reports as the Commissioner may require to carry out his functions.

Administrative authority comes from Part 100a.720 of Education Division General Administrative Regulations which states:

"(a) This section applies to the reports required under Subpart I (Financial reporting) and J (Performance reporting) or Part 74 of this title.

(b) A grantee shall submit these reports annually, unless the appropriate official of the Education Division allows less frequent reporting."

(o) Timetable for Dissemination of Collected Data: Data should be available in January. Currently there is no dissemination other than in-house distribution of summary reports; however, the data are widely disseminated as needed in response to requests.

(p) Estimate of the total Person-Hours and Costs Required to Complete the Request: The estimated average person-hours per respondent is 4 hours. It is estimated that 27 grants will be funded which would require a total of 108 person-hours to complete the reports at a total estimated cost of $1200.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: N/A.

(r) Copy of the Exact Data Instrument: The report forms may be obtained from: Arnold H. Silver, Management Information Specialist, ISPSB/Information Systems Section, Education Department, Room 3514, ROB–3, 7th & D Streets, S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: A "welcome aboard letter" is mailed to project directors at the beginning of the project year along with copies of the reports that are required to be filed at the end of the project year.

The letter indicates the names and telephone numbers of individuals who can answer any questions. Each year workshops are held for project directors in which the report forms are thoroughly discussed.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: Data is collected on a staggered basis depending on project expiration dates and will take place from May thru December.

Project directors are sent copies of the reports at the beginning of the project year and are notified when they will be due. Report forms are again sent to all project directors six weeks before they are due.

(u) Specific Justification for a Multi-Year Approval: The report forms have been used successfully in the past. Multi-year approval is justifiable as it would minimize the burden for the project directors to use the same forms throughout the grant.

Data Activity Plan Summary

(a) Title of Proposed Activity: Financial Status and Performance Report for the Follow Through Program.

(b) Agency/Bureau/Office: U.S. Office of Education, Bureau of Elementary and Secondary Education, Division of Follow Through.

(c) Agency Form Number: OE 376.

(d) Justification: Section 100a.720 of the Education Division General Administrative Regulations (EDGAR) require all grantees to submit annual financial status and performance reports, as specified by Attachment H of OMB Circular A–102. The statutory authority for 100a.720 of EDGAR is 20 U.S.C. 1221e–3(a)(1).

(e) Description of Survey Plan: N/A.

(f) Tabulation and Publication Plans: N/A.

(g) Time Schedule for Data Collection and Publication: N/A.

(h) Consultations Outside the Agency: None.

(i) Estimation of Respondent Reporting Burden:

Respondent types	Number	Estimate of average person-hours
Local Educational Agencies	153	30
Colleges and Universities	19	30
State Educational Agencies	35	30
Non-Public Organizations	6	30
Organizations other than Schools or Educational Agencies	1	30

(j) Sensitive Questions: N/A.

(k) Estimate of Cost to Federal Government: $1000 for completion and distribution of collection instrument.

(l) Detailed Justification of How Information Once Collected Will Be Used:

Follow Through Grantee Performance Report—This performance report is used to monitor the work being accomplished.

Financial Status Report—The Financial Status Report is the standard form used by all Office of Education grantees to report financial obligations. This form is used to determine the basis of refunding.

(m) Methods of Analysis: N/A.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "Sec. 554 and 555 of the Economic Opportunity Act of 1965 as amended and 20 U.S.C. 1221e–3(a)(1)."

(o) Timetable for Dissemination of Collected Data: N/A.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request: Total person hours, 6,420; total cost to respondent, $64,200.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: N/A.

(r) Copy of the Exact Data Instrument: Available from U.S. Office of Education, Bureau of Elementary and Secondary Educational Programs, Division of Follow Through—ROB #3, 7th & D Streets, S.W., Room 3624, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: These forms have been used by this population for the last ten years. The organizations have had individual input during this time frame.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request: Information collection to be made in September 1980. This is three months after grant closing date, which allows sufficient time for response.

(u) Specific Justification for a Multi-Year Approval: Four year approval should be granted since—

- This form has been used annually and will be continued to be used annually.
- They are routine administrative forms.
- They represent small or minimal burdens.
- They have been used successfully in the past.

Data Activity Plan Summary

(a) Title of Proposed Activity: Public Service Education Program Application.

(b) Agency/Bureau/Office: Office of Education/Bureau of Higher and Continuing Education.

(c) Agency Form Number: OE 404.

(d) Justification: Information on SF 424, page 1 (10–75) plus the number of new fellowships and continuing fellowships, and fellowship months of support are required by institutions applying for an allocation of fellowships in the public service program. A narrative statement not to exceed 20 double-spaced typewritten pages (exclusive of faculty information) is also required, covering: 1. Nature and objective of the program; 2. Curriculum description; 3. Internship description; 4. Library, laboratory, and other facilities and equipment description; 5. Qualifications of the faculty and staff; 6. Specific request for an institutional grant and/or fellowships.

(e) Description of Survey Plan: NA.

(f) Tabulation and Publication Plans: NA.

(g) Time Schedule for Data Collection: Fall, Annually.

(h) Consultations Outside the Agency: NA.

(i) Estimation of Respondent Reporting Burden: Respondent Type—Colleges and Universities with graduate public service training programs. Number—170. Average Person-Hours—40.

(j) Sensitive Questions: NA.

(k) Estimate of Cost to Federal Government: NA.

(l) Justification of How Information Once Collected Will Be Used: This information will be used in the evaluation of applications for award of institutional grants and for allocations of fellowships by institutions of higher education.

(m) Methods of Analysis: NA.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: Sec. 901(a)(2) of Title IX, HEA: "It is the purpose of this part to make financial assistance available to institutions of higher education to establish, strengthen, and improve programs designed to prepare graduate and professional students for public service." (Pub. L. 92–318, 20 U.S.C. 1134 as amended by Pub. L. 94–482, U.S.C. 1134; 45 CFR 194.1 to .8). Sec. 941(s) of Title IX, HEA. "The Commissioner is authorized to award under the provisions of this part not to exceed five hundred fellowships for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1979." (Pub. L. 92–318, 20 U.S.C. 1134i, as amended by Pub. L. 94–482, 20 U.S.C. 1134i; 45 CFR 194.21 to .32).

(o) Timetable for Dissemination of Collected Data: NA.

(p) Estimate of Total Person-Hours and Costs Required to Complete the Request: Total Person-Hours: 6,800. Cost: $204,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: Charles St. John, ROB #3, Rm. 3053, 400 Maryland Ave., SW, Washington, D.C. 20202.

(s) Account of Early Involvement and Communications with Respondent Populations: NA.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply with Request: Request for the data will be mailed to institutions annually in the fall at least 60 days prior to the announced notice of closing.

(u) Specific Justification for a Multi-Year Approval: It is a routine adminstrative form and has been used successfully in past competitions.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program—Application.

(b) Agency/Bureau/Office: Office of Education/Bureau of Higher and Continuing Education.

(c) Agency Form Number: OE 405.

(d) Justification: Information required of institutions applying for allocations of fellowships in mining and mineral fuel conservation.

(e) Description of Survey Plan: NA.

(f) Tabulation and Publication Plans: NA.

(g) Time Schedule for Data Collection and Publication: Fall. Annually.

(h) Consultations Outside the Agency: NA.

(i) Estimation of Respondent Reporting Burden: Respondent Type—Colleges and Universities; Number—60; Average Person-hours—40.

(j) Sensitive Questions: NA.

(k) Estimate of Cost to Federal Government: NA.

(l) Justification of How Information Once Collected Will be Used: The information will be used in the evaluation of an institution's graduate programs in mining and mineral fuel conservation for allocations of fellowships to these institutions.

(m) Methods of Analysis: NA.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "The Commissioner is authorized to award under the provisions of this part not to exceed five hundred fellowships for the fiscal yar ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1979. (Pub. L. 92-318, 20 U.S.C. 1134n, as amended by Pub. L. 94-482, 20 U.S.C. 1134n; 45 C.F.R. 196.1 to .14).

(o) Timetable for Dissemination of Collected Data: NA.

(p) Estimate of total Person-hours and Costs Required to Complete the Request Total Person-Hours: 2,400. Cost: $72,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: Robert Fillion, ROB #3, 400 Maryland Ave., SW, Washington, D.C. 20202.

(s) Account of Early Involvement and Communications with Respondent Populations: NA.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply: Request for the data will be mailed to institutions annually in the fall at least 60 days prior to the announced notice of closing.

(u) Specific Justification for a Multi-Year Approval: It is a routine administrative form and has been used successfully in past competitions.

Data Activity Plan Summary

A. *Title of Proposed Activity:* Performance Report and Related Financial Status Report for the Cooperative Education Program.

B. *Name of Sponsoring Agency/Bureau/Office:* U.S. Office of Education/Bureau of Higher and Continuing Education/ Division of Training and Facilities.

C. *Agency Form Number:* OE 411.

D. *Justification:* 1. The authorizing legislation for the Cooperative Education Program is Title VIII of the Higher Education Act of 1965, as amended. The purpose of the program is to enrich the quality and scope of postsecondary education through educationally related work experiences which afford college students an opportuntiy to earn funds needed for their educational or career objectives. The program awards four types of grants—administration grants, demonstration/exploration grants, research grants, and training grants. The intent of the legislation is to provide Federal seed monies to institutions of higher education for the development of programs at institutions showing a strong commitment to continue co-op after termination of Federal support and to increase the numbers of students participating in cooperative education programs. Administration grants—Awarded to institutions of higher education for the purpose of administering cooperative education programs. Matching funds are required on a sliding scale from zero to 70% over a five-year period of Federal funding.

Demonstration/Exploration grants—Awarded for the purpose of demonstrating or exploring the feasibility or value of innovative methods of cooperative education. The administration's policy is for the program to award large size (approximating $1 million each), multi-year grants primarily to institutions located in major urban areas.

Research grants—Awarded to conduct research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education.

Training grants—Awarded for the training of persons in the planning, establishment, administration, or coordination of programs in cooperative education.

2. The Performance Report and the Financial Status Report are authorized by OMB Circular A-110 and U.S. Office of Education grant administration regulations. These reports, requested on an annual basis, are to be submitted by all program grantees and are used for monitoring grantee performance and for certifying that all grant activities were satisfactorily completed in accordance with the grant terms and conditions. Data collected on the forms will also be summarized nationally for program planning and budgeting purposes and for responding to various HEW, OE, OMB, Congressional and other requests for program information.

3. No similar data are collected outside of or by the Cooperative Education Program.

E. *Description of Survey Plan*—Not applicable.

F. *Tabulation and Publication Plans:* National tabulations by State, U.S., type of grantee, etc. will be used for program management and other purposes as described above.

G. *Time Schedule for Data Collection and Publication*—October or November of each year.

H. *Consultations outside the Agency:* Discussed the draft form with the Director of Placement and Cooperative Education, University of South Florida. Her suggestions were incorporated into the form; there were no major problems.

I. *Estimation of Respondent Reporting Burden:* Information is to be collected by mail annually. Reports will be due either 30 or 90 days after the end of each grant budget period, depending upon the type of grant awarded.

Respondent type	Number	Estimate of average person-hours
Colleges and universities	167	167×5=835
Nonpublic junior colleges	11	11×5=55
Public junior colleges	106	106×5=530
Organization other than schools or education agencies.	2	2×5=10

J. *Sensitive questions*—Not applicable.

K. *Estimate of Cost to Federal Government*—Not applicable.

L. *Detailed Justification of how information once collected will be used:* Data are to be collected only from recipients awarded Cooperative Education Program funds and used for program management purposes. The data are to be reviewed for compliance under the terms and conditions of the award and for grant close-out purposes. Data summarized on a national basis will also be used to show program accomplishments such as: the numbers of students benefiting from the program; the fields of education and types of careers being pursued by co-op students; the educational level of students (two-year, four-year, graduate); the success of students in completing their degree program; the income earned by students to indicate the cost-effectiveness of the program; and the ability of a college or university to continue the co-op program after an institution has received the maximum number of awards authorized under the legislation. The intent of the legislation is to provide the seed money necessary for an institution to develop a co-op program and maintain it after Federal funding terminates. The information collected will be used for budget justifications and planning, congressional and OMB hearings, and for responding to inquiries made by the administration.

M. *Methods of analysis:* Only tabulated data are to be reported, which will be summarized on a national basis by State, type of institution, etc.

N. *Legislative authority specifically requiring or allowing the data collection*—Financial Reporting Requirement: "Each Federal sponsoring agency shall require the recipients to use the standardized Financial Status Report to report the status of funds for all non-construction projects or programs."

Performance Report: "Recipients shall submit a performance report (technical report) for each agreement . . . recipients shall submit the performance or technical reports to Federal sponsoring agencies and the Financial Status Reports covering the same period. . . ." (Office of Management and Budget Circular No. A–110, Federal Register, Vol. 41, No. 148.)

O. *Timetable for dissemination of collected data:* Summary data are to be edited and tabulated within about two months after all the reports are received. No specific publication is planned at this time.

P. *Estimate of the total person hours and costs required to complete request.*

Total Hours: 286 respondents×5 hours=1,430 hours.

Cost: For each recipient:

Professional—4 hours at $10.0 per hour=	$40.00
Secretary—1 hour at $4.00 per hour=	4.0
Recipient cost—5 hours at $14.00 per hour=	44.00

For all recipients: $44.00×286 respondents $12,584.

Q. *Evidence of any urgent need or very unusual circumstances requiring the data:* Not applicable.

R. *Copy of the Exact Data Instrument:* Copies of the draft Performance Report are currently available for review and comment by contacting: Program Manager, Cooperative Education Branch, Room 3053, ROB#3, Division of Training and Facilities, BHCE, U.S. Office of Education, Washington, D.C. 20202.

S. *Brief Account of Early Involvement and Communications With Respondent Populations:* The form was discussed at a meeting with the Director of the Cooperative Education Program, University of South Florida. The director is also former president of the Cooperative Education Association, a national professional association.

T. *Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request:* The data will be collected in the Fall (November) of 1980, 1981, and 1982. The forms will be sent to the respondents several months in advance so they can establish the necessary record-keeping procedures for preparation of the reports.

U. *Specific Justification for Multi-Year Approval:* Multi-year approval is requested. The Performance Report is a routine administrative form, authorized by OMB Circular A–110, to be completed only by recipients of Cooperative Education Program grants. Currently there are 286 funded projects with the likelihood that the number will decrease in succeeding years. It is an annual report required for program management purposes.

Data Activity Plan Summary

(a) Title of Proposed Activity: Application for Grants Under Library Training Program.

(b) Name of sponsoring Agency/Bureau/Office: U.S. Office of Education, Bureau of Elementary and Secondary Education, Office of Libraries and Learning Resources.

(c) Agency Form Number: OE Form 547.

(d) Justification: This is discretionary grant program with an annual competition among institutions of higher education, library organizations and agencies. This application form is necessary to elicit institutional and proposed project data called for by the special program criteria and which are not available from other sources. This data is used by field readers and headquarters staff to evaluate the merit of a proposal and to determine funding levels.

(e) Description of Survey Plan: NA.

(f) Tabulation and Publication Plans: NA.

(g) Time Schedule for Data Collection and Publication: NA.

(h) Consultations Outside the Agency: The library education constituency is a relatively small one comprising approximately 60 to 70 institutions of higher education. Informal contacts with that constituency have indicated that the form is a realistic one and poses no problem in easily eliciting data requested.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Colleges and universities	70	12

The estimate of 12 hours is based on the fact that the average proposal should not exceed 30 pages in length, including the standard institutional and fiscal data pages. Since relatively few institutions meet eligibility requirements for this program, these same institutions reapply each year and are, therefore, thoroughly familiar with the application form.

(j) Sensitive Questions: NA.

(k) Estimate of Cost to the Federal Government: NA.

(l) Detailed Justification of How Information Once Collected Will Be Used. Information elicited will be used primarily for program management purposes to determine institutional eligibility, amount of grant award, compliance review, effective dates of the grant award, and adherence to published program funding criteria.

(m) Methods of Analysis: NA.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "The Commissioner may make a grant to an institiution of higher education and library organization or agency only upon application by the institution and only upon his finding that such program will substantially further the objective of increasing the opportunities throughout the Nation for training in librarianship." (Sec. 222(b) of the Higher Education Act of 1965, as amended by Pub. L. 92–138, 20 U.S.C. 1021, 1033)

(o) Timetable for Dissemination of Collected Data: Applications are

submitted by mail on an annual basis, generally in the fall.

(p) Estimate of the total Person-Hours and Costs Required to Complete the Request: Anticipating a total number of 70 applications requiring 12 hours each to prepare would equal a total of 840 person-hours. Estimating an average cost of $10 per person-hours plus the cost of materials and equipment the total cost to respondents would be approximately $9,000.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: A supply of the application form is maintained in the Library Education and Postsecondary Resources Branch, Office of Libraries and Learning Resources, U.S. Office of Education, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: As described in item (h) above.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: The OE policy for sixty-day lead time in the preparation of applications will be observed in scheduling the closing date for receipt of applications. It is anticipated that applications will be due in November, 1980.

(u) Specific Justification for a Multi-Year Approval: Multi-year approval is requested, since this is a routine application form, with a limited constituency and relatively small reporting burden with four years of successful utilization. Pending Education Amendments of 1980 reauthorizes this program through fiscal year 1985.

Data Activity Plan Summary

(a) Title of Proposed Activity: Referral/Assignment of Defaulted Note(s).

(b) Agency/Bureau/Office: U.S. Office of Education, Bureau of Student Financial Assistance, Division of Program Operations, Campus and State Grants Branch, Services and Collections Section.

(c) Agency Form Number: OE 553.

(d) Justification: This form was designed to provide the maximum efficiency for full reporting of debtor information for both the institution and the Federal government. The reports will contain a complete statement of the facts and computations which are pertinent under laws and regulations on this basis of which the debt was administratively determined.

(e) Description of Survey Plan: Institutions of higher education use the form to transmit defaulted NDSL accounts to the Office of Education under the statutory authority for assignment to the United States or referral for collection assistance under the 1979 amendment.

(f) Tabulation and Publication Plans: Data is keyed into our computer data base to generate administrative and individual institutional reports regarding the collection activities on individual student accounts.

(g) Time Schedule for Data Collection and Publication: Data collection is an ongoing activity. OE reports of collection efforts are expected to be generated quarterly.

(h) Consultation Outside the Agency: None.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours per response
Colleges and Universities	3300	.5

(j) Sensitive questions: N/A.

(k) Estimate of Cost to Government: The total direct cost to the Federal Government (including processing costs and staff personnel) is estimated to be $300,000 per year excluding postage and regional office efforts.

(l) How information collected will be used: The primary use of these forms will be to establish a sound collection program to reduce the default rate in the National Defense/Direct Student Loan Program and provide a systematic procedure for the deposit of collected sums to the U.S. Treasury in accordance with the statutory provisions for assigned accounts and for the return of appropriate sums collected to the institutions in accordance with the referral authority. For accounts submitted under the assignment authority, the forms will provide information required by the General Accounting Office should the outstanding balance assigned to the U.S. Government be referred to that office for litigation in accordance with standards contained in the Federal Claims Collection Act of 1966 and the implementing joint standards, and to ascertain the performance of due diligence on the part of the lending institution as required. These forms will also provide historical data which will be collected and summerized for informational purposes regarding defaulted notes legally assigned or referred to the U.S. Government by lending institutions under the authority cited in Item (N) below. These data will include the borrower's name, social security number, birth date, address, principal amount loaned, repayment or legal cancellation of principal and interest, outstanding balance and efforts of past collected activity. Summary reports will be categorized by institutional type and control and used to determine defaulted patterns.

(m) Method of Analysis: Data aggregation will be by institutional type and control State and national. Analysis to determine institutional exercise of due diligence requirements.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "Provide that where a note or written agreement evidencing a loan has been in default for at least 2 years despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such loan shall be deposited in the general fund of the Treasury." (Sec. 463 (a) (5) of the Higher Education Act of 1965, as amended by Pub. L. 92–318, 20 USC 1087cc). "The Commissioner is authorized to attempt to collect any loan, which was made under this part and which is in default, referred to him by an institution, with which he has an agreement under subsection (a) of Section 463, on behalf of such institution under such terms and conditions as the Commissioner may prescribe, including reimbursement for expenses he may reasonably incur in attempting such collection." (Sec. 467, of the Higher Education Act of 1965, as amended by Pub. L. 96–49).

(o) Timetable for Dissemination of Collected Data: Current plans call for quarterly reports to the institutions involved. The first report of borrower's account, name, address, total loan, repayments/cancellations, status and balance due.

(p) Estimate of the Total Person-Hours and Cost Required to Complete the Request: Estimate of total person-hours per form is .5. Cost unknown.

(q) Evidence of any Urgent Need for Very Unusual Circumstances Requiring the Data: N/A.

(r) Copy of the Exact Data Instrument: Florence V. Taylor, Chief, Services and Collections Section, Campus and State Grants Branch, DPO, BSFA, Room 4621—ROB No. 3, U.S. Office of Education, Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications with Respondent Population: None.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply With Request: Form was submitted by some 2,000 colleges and universities

during 1979. Voluntary submission at descretion of the lending institutions and may be submitted at any time.

(u) Specific Justification For a Multi-Year Approval: The legislative authority is open and voluntary for the submission of accounts as long as they meet the criteria of default status.

Data Activity Plan Summary

(a) Title of the Proposed Activity: National Direct Student Loan Program semi-annual Default Loan Report.

(b) Agency/Bureau/Office: Office of Education-Bureau of Student Financial Assistance-Division of Program Operations.

(c) Agency for Number: OE Form 574.

(d) Justification: This report is required by the enactment of the Education Amendments of 1976, Section 493(a), "(4) provide that where a note or written agreement evidencing a note has been in default for (A) one hundred and twenty days, in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Commissioner in a report describing the total number of loans from such Fund which are in default, and made to the Commissioner at least semiannually, "20 U.S.C. 1087cc.

The data will be analyzed according to institutional type and control. Its use will include period-to-period comparison in establishing default trends and for statistical reporting to the Congress, the Commissioner of Education, Educational Organizations and other interested parties. Data not available from any other source.

(e) Description of Survey Plan: Not applicable.

(f) Tabulation and Publication Plans: N/A.

(g) Time Schedule for Data Collection and Publication: N/A.

(h) Consultation Outside of Agency: Reporting requirements were discussed with Regional Office Student Assistance Program Staff. Comments and suggestions were considered in data format.

(i) Estimation of Respondent Reporting Burden: Respondent Type—Colleges and Universities. Number; 2,600. Estimate of Average Person-Hours; 5.

(j) Sensitive Questions: NA

(k) Estimate of Cost To Federal Government: The total direct cost to the Federal Government (Including processing cost and staff personnel) is estimated to be $5,000 per year.

(l) Detailed Justification of How Information Once Collected Will be Used:

Program Management: This report will serve to provide information about the capability of the institutions to establish and administer effective collections programs. The data will be used to determine the effectiveness of the loan activities and to determine whether the institutions are following the steps necessary in the performance of due diligence as stipulated in the regulations. It will also be used in the formula to compute delinquence percentages and potential default rates.

Evaluation: (1) complaince with established regulations pertaining to collection practices, such as regular billing and follow-up procedures, and collection activities (2) institutional administrative capability (3) practices and policies established to carry out due diligence.

Research: The data collected may be used for the purposes of (1) establishing default trends in various types of institutions by repayment method (2) analysis and studies of defaulted loans by educational organizations and OE (3) comparison of default ratios.

Condition of Education: (1) summaries of categorical information for OE and organizations associated with the Education Community (2) response to Congressional inquiries (3) public dissemination.

(m) Method of Analysis: N/A

(n) Legislative Authority Specifically Required or Allowing the Data Collection: Section 463. (a) "An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall: provide that where a note or written agreement evidencing a note has been in default for (A) one hundred and twenty days, in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Commissioner in a report describing the total number of loans from such fund which are in such default, and made to the Commissioner at least semi-annually."

(Pub. L. 92-318, Sec. 137(b), 20 U.S.C. 1087cc, as amended under Sec. 130(c), P.L. 94-482, Education Amendments of 1976.)

(o) Timetable for Dissemination of Collected Data: March 1, 1981; Report Due in OE. March 1, 1981–April 15, 1981; Tabulation of Data. May 1, 1981; Production of Final Summary Tables.

(p) Estimate for the Total Person-Hours and Cost Required to Complete the Request: Average Man Hours per Respondent 5×2,600 (Universe)=13,000 total person-hours. Estimated total cost—$50,000.

(q) Evidence of Urgent Need or Very Unusual Circumstances Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: A copy of the full plan and the data instrument(s) may be obtained from: Mr. Robert R. Coates, OE/BSFA/DPO/CSGB, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: Method of Collection: Mail. Time of Collection: Winter (December 31) of Each Year. Frequency: Annually.

(t) Assurance That Respondent Will Have Sufficient Lead Time to Comply With Request: Respondent is given 30 days to respond to request.

(u) Specific Justification for Multi-Year Approval: Data is required by law to be collected annually.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Graduate and Professional Opportunities Fellowships and Institutional Grants—Application.

(b) Agency/Bureau/Office: Office of Education/Bureau of Higher and Continuing Education.

(c) Agency Form Number: OE 591.

(d) Justification: Information on SF 424, plus the amount of institutional request by category of eligible activities and the number of fellowships are required by institutions applying to the program. A narrative statement is also required covering:

1. Nature and objective of the program.
2. Curriculum description.
3. Internship description.
4. Library, laboratory, and other facilities and description.
5. Qualifications of the faculty and staff.

(e) Description of Survey Plan: NA.

(f) Tabulation and Publication Plans: NA.

(g) Time Schedule for Data Collection and Publication: Fall—Annually.

(h) Consultations Outside the Agency: NA.

(i) Estimation of Respondent Reporting Burden: Respondent Type—Colleges and Universities; Number—350; Average Person-Hours—40.

(j) Sensitive Questions: NA.

(k) Estimate of Cost to Federal Government: NA.

(l) Justification of How Information Once Collected Will Be Used: This information will be used in the evaluation of applications by institutions of higher education for institutional grants and allocations of fellowships.

(m) Methods of Analysis: NA.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection For Institutional Grants: "There are authorized to be appropriated $50,000,000 for each of the fiscal years ending prior to October 1, 1979, for the purpose of this part." (Pub. L. 92–318, as amended by Pub. L. 94–482, 20 U.S.C. 1134).

For fellowships: "During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1979, the Commissioner is authorized to award not to exceed seven thousand five hundred fellowships to be used for study in graduate programs at institutions of higher education." (Pub. L. 92–318, as amended by Pub. L. 94–482, 20 U.S.C. 1134e).

(o) Timetable for Dissemination of Collected Data: NA.

(p) Estimate of Total Person-Hours and Costs Required to Complete the Request: Total Person-Hours: 14,000. Cost: $420,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: Donald N. Bigelow, 400 Maryland Ave., SW, Washington, D.C. 20202.

(s) Account of Early Involvement and Communications with Respondent Populations: NA.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply to Request: Request for the data will be mailed to institutions annually in the fall at least 60 days prior to the announced notice of closing.

(u) Specific Justification for a Multi-Year Approval: It is a routine adminstrative form which has been successfully used in the past. Legislation authorizes collection of the data.

Data Activity Plan Summary

(a) Title of Proposed Activity: Application for Strengthening Research Library Resources Program.

(b) Name of sponsoring Agency/Bureau/Office: U.S. Office of Education, Bureau of Elementary and Secondary Education, Office of Libraries and Learning Resources.

(c) Agency Form Number: OE–592.

(d) Justification: This is a discretionary program, with an annual competition among major research libraries. This application form is necessary to elicit institutional and proposed project data called for by the special program criteria and which are not available elsewhere. This data is used by field readers and headquarters staff to evaluate the merit of a proposal and to determine funding levels.

(e) Description of Survey Plan: NA.

(f) Tabulation and Publication Plans: NA.

(g) Time Schedule for Data Collection and Publication: NA.

(h) Consultations Outside the Agency: The Executive Director of the Association of Research Libraries—Mr. John Lorenz—was consulted. This Association is broadly representative of most of the major research libraries in the Nation. Since the form utilized the standard application packages adopted by the Agency and since the narrative portion follows program funding criteria closely, no major problem emerged, and we were assured that this special constituency could easily provide the data requested.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Colleges and universities	70	16
Public libraries	7	16
State library agencies	3	16
Nonprofit organizations	20	16

The estimate of 16 hours is based on the fact that an average proposal ought not to exceed 50 pages, including the standard institutional and fiscal data pages, half of which is institutional data related to the characteristics of the library as it is presently constituted and which ought to be readily and easily obtainable. The balance of the proposal is a project narrative, with budget notes, addressing the six (6) special program criteria, which are relatively straightforward and uncomplicated. Since the advent of the program, the question of preparation time has been discussed informally with respondents and the figure of 16 hours has been indicated to be a realistic one.

(j) Sensitive Questions: NA.

(k) Estimate of Cost to the Federal Government: NA.

(l) Detailed Justification of How Information Once Collected Will Be Used: Information elicited will be used primarily for program management purposes to determine institutional eligibility, the amount of the grant award, compliance review, the length of the grant award, and adherence to published program funding criteria.

(m) Methods of Analysis: NA.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "Each applicant for a grant under this part shall submit an application to the Commissioner. (a) The application must include the following:

(1) Information sufficient to enable the Commissioner to determine the eligibility of the applicant under § 136.04; (2) A description of the specific activities which the applicant proposes to carry out with financial assistance under this part; (3) A description of the methods and manner of administration of the proposed project including any plan of acquisition; and (4) A budget and justification detailing the costs of services and property in the proposed project. (b) The application should also provide information responding to each of the funding criteria in § 136.06. . . ." [Section 136.05 of the Grant Provisions, implementing Secs. 231–236, 20 U.S.C. 1041–1046, 1232c(b)(3).]

(o) Timetable for Dissemination of Collected Data: Data is collected annually in late winter or spring for use by field readers and program staff.

(p) Estimate of the total Person-Hours and Costs Required to Complete the Request: Based on an anticipated receipt of approximately 100 proposals annually with a preparation time of 16 person-hours per proposal, this would amount to approximately 1600 person-hours. Estimating $10 per hour, plus supplies and materials, the cost to all respondents would be approximately $20,000.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: Copies of the exact data instrument may be obtained from: Library Education and Postsecondary Resources Branch, U.S. Office of Education, Washington, D.C. 20202. ATTN: Rm. 3622, ROB–3.

(s) Brief Account of Early Involvement and Communications With Respondent Populations: Informal, regular communications with the two major research library constituencies—the Association of Research Libraries and the Independent Research Library Association—took place at the time of program inception in 1978, primarily with respect to development of program criteria. Since the application form is tied directly to the funding criteria, such communications were significant in obtaining views related to the viability of data to be collected.

(t) Assurance That Respondents Will Have Sufficient Lead time To Comply With Request: Notice of the deadline date is published annually in the summer before the new fiscal year, and application packages are distributed at least 60 days before the deadline date.

(u) Specific Justification for Multi-Year Approval: Multi-year approval is requested, since this is a routine application form, with a limited constituency and relatively small reporting burden with two years of successful utilization. Further, the pending Education Amendments of 1980

reauthorizes this program through fiscal year 1985.

Data Activity Plan Summary

(a) Title of the Proposed Activity: Law School Clinical Experience Program—Application.

(b) Agency/Bureau/Office: Office of Education/Bureau of Higher and Continuing Education.

(c) Agency Form Number: OE 595.

(d) Justification: Information on SF 424, plus compliance with Funding Criteria published in the Federal Register. This includes such items as:

1. Need for clinical program.
2. Nature and scope of clinical program.
3. Relevant faculty and institutional resources.
4. Legal skills to be developed.
5. Degree of clinical supervision.
6. Appropriate academic credit.
7. Law school's commitment to clinical legal education.

(e) Description of Survey Plan: NA.

(f) Tabulation and Publication Plans: NA.

(g) Time Schedule for Data Collection and Publication: Fall. Annually.

(h) Consultations Outside the Agency: NA.

(i) Estimation of Respondent Reporting Burden: Respondent Type—Accredited Law Schools; Number—160; Average Person-Hours—30.

(j) Sensitive Questions: NA.

(k) Estimate of cost to Federal Government: NA.

(l) Justification of How Information Once Collected Will Be Used: This information will be used in the evaluation of applications by a panel of consultants to determine which proposed programs should be funded.

(m) Methods of Analysis: NA.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "The Commissioner is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the cost of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, with preference being given to programs providing such experience, to the extent practicable, in the preparation and trial of cases." (Pub. L. 90–575, as amended by Pub. L. 92–318 and Pub. L. 482, 20 U.S.C. 1136b.)

(o) Timetable for Dissemination of Collected Data: NA.

(p) Estimate of Total Person-Hours and Costs Required to Complete the Request: Total Person-Hours—4,800; Costs—$192,000.

(q) Evidence of Any Urgent Need or Very Unusual Circumstance Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: Donald N. Bigelow, 400 Maryland Ave., SW, Washington, D.C. 20202.

(s) Account of Early Involvement and Communications with Respondent Populations: NA.

(t) Assurance That Respondents Will Have Sufficient Lead Time to Comply to Request: Request for the data will be mailed to institutions annually in the fall at least 60 days prior to the announced notice of closing.

(u) Specific Justification for a Multi-Year Approval: It is a routine administrative form which has been used successfully in the past.

Data Activity Plan Summary

(a) Title of Proposed Activity: Financial Status and Performance Report for: College Library Resources Program; Library Training Program; Strengthening Research Library Resources.

(b) Name of the Sponsoring Agency/Bureau/Office: U.S. Office of Education, Bureau of Elementary and Secondary Education, Office of Libraries and Learning Resources.

(c) Agency Form Number: OE–606.

(d) Justification: This is a consolidated report form for four discretionary grant programs and utilizes the standard Financial Status Report form approved by OMB—SF 269, with additional performance report requirements for two of the programs: CFDA 13.468 and 13.576. The fourth program—Title VI–A of the Higher Education Act (Undergraduate Instructional Equipment Program)—is being phased-out, and should be deleted from the form. This form is mandated by the General Provisions for Office of Education Programs, Subparts P and Q, and is necessary to determine utilization of grant funds awarded and, for 13.468 and 13.576, to determine project performance as approved.

(e) Description of Survey Plan: This form is utilized by a universe of approximately 2,700 institutions of higher education, including about 30 public and private nonprofit library agencies. The primary mailing list utilized is that provided by the Application Control Center, GPMD, USOE, augmented to a limited extent by special requests.

(f) Tabulation and Publication Plans: NA.

(g) Time Schedule for Data Collection and Publication: Data is collected annually within 90 days of the expiration of the respective grant programs. No publication is conducted.

(h) Consultation Outside the Agency: Because of the use of standard form 269 and the relative simplicity of additional data requested, there was no consultation outside the agency.

(i) Estimation of Respondent Reporting Burden:

Respondent type	Number	Estimate of average person-hours
Colleges and universities	1400	4
Nonpublic junior colleges	230	4
Nonprofit organizations	45	4
Organizations other than schools	65	4
Public junior colleges	1000	4
Public Libraries	6	4
State library agencies	4	4

(j) Sensitive Questions: NA.

(k) Estimate of Cost to the Federal Government: NA.

(l) Detailed Justification of How Information Once Collected Will Be Used: The standard fiscal report pages will provide information enabling program and management staff to determine whether or not grant funds were fully expended, properly expended, and expended in a timely manner consistent with grant terms and conditions. For 13.406, financial data reported is taken into account in determining adherence to the program maintenance-of-effort provisions. For 13.468 and 13.576, performance reporting provides data as to program effectiveness and accomplishments and provides the basis for subsequent program evaluation.

(m) Methods of Analysis: NA.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: "The grantee shall submit such fiscal and other reports as may be required in 45 CFR Part 100a, in the grant, or by the grants officer, and in the quantity and at the time stated in the report schedule which is set forth in the special terms and conditions." (Appendix A, Subchapter A—General Provisions for Office of Education Programs, as authorized by Sec. 403(b)(1), Pub. L. 90–247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.)

(o) Timetable for Dissemination of Collected Data: Data is collected 90 days after the termination of the grant period, and is reviewed by program and management staff.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request: Based on an anticipated receipt of approximately 2,700 reports annually with a preparation time of 4 person-hours per report, this would amount to approximately 10,800 person-hours. Estimating $10 per hour, plus supplies and materials, the cost to all

respondents would be approximately $108,000.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: NA.

(r) Copy of the Exact Data Instrument: Copies of this form may be obtained from the following office: Library Education and Postsecondary Resources Branch, U.S. Office of Education, Washington, D.C. 20202. ATTN: Rm. 3622, ROB–3.

(s) Brief Account of Early Involvement and Communication With Respondent Populations: None.

(t) Assurance That Respondents Will Have Sufficient Lead Time To Comply With Request: This report form is usually supplied to grantees with their grant award document, but in no case no later than the end of the grant award period.

(u) Special Justification for a Multi-Year Approval: Multi-year approval is requested, since this is a routine report form utilizing standard budget pages, with a relatively small reporting burden, and with a history of several years of successful utilization. Further, the pending Education Amendments of 1980 reauthorizes the three programs through FY 1985.

Data Activity Plan Summary

(a) Title of Proposed Activity: Educational Information Centers Program—Application.

(b) Name of the Sponsoring Agency/Bureau/Office: Office of Education, Bureau of Higher and Continuing Education, Division of Training and Facilities.

(c) Agency Form Number: OE 610.

(d) Justification: To make grants to State agencies designated to administer the Educational Information Centers Program, which are to operate centers to provide educational information, guidance, counseling and referral services.

(e) Description of Survey Plan: N/A.

(f) Tabulation and Publication Plans: The information will be used to determine whether or not the applications meet the requirements for participation in this formula grant program.

(g) Time Schedule for Data Collection and Publication: Applications will be mailed the first week of March. Closing date will be the middle of April. Grants will be made by the end of June.

(h) Consultations Outside the Agency: Not applicable.

(i) Estimation of Respondent Reporting Burden: 15 person-hours per agency.

(j) Sensitive Questions: Not applicable.

(k) Estimate of Cost to Federal Government: Not applicable.

(l) Detailed Justification of How Information Once Collected Will Be Used: Closing data for applications will be April 15. Staff will review applications to determine compliance with program requirements for participation, which process should be completed by June 1. Award notifications should be sent by the Bureau before June 30.

(m) Methods of Analysis: Each portion of the application will be reviewed for consistency with proper guidelines.

(n) Legislative Authority Specifically Requiring or Allowing the Data Collection: Section 418A. (a) "The Commissioner shall, in accordance with the provisions of this subpart, make grants to States to pay the Federal share of the cost of planning, establishing, and operating Educational Information Centers to provide educational information, guidance, counseling, and referral services for all individuals, including individuals, residing in rural areas." (20 U.S.C. 1070d–2) Pub. L. 94–482.

(o) Timetable for Dissemination of Collected Data: Grant awards of this formula grant program will be made by June 30.

(p) Estimate of the Total Person-Hours and Costs Required to Complete the Request: 15 per-hours × 57 States × $20 per hour = $17,100 approximately.

(q) Evidence of any Urgent Need or Very Unusual Circumstance Requiring the Data: Application required for participation in program.

(r) Copy of the Exact Data Instrument: Copies of the exact data instrument may be obtained from Office of Education, Bureau of Higher and Continuing Education, Community Service and Continuing Education Branch, 400 Maryland, S.W., Washington, D.C. 20202.

(s) Brief Account of Early Involvement and Communications with Respondent Populations: This will be the third year of program operation. Communication is maintained on a continuing basis with State directors.

(t) Assurance That Respondents will Have Sufficient Lead Time to Comply With Request: Respondents will have 45 days to complete applications. The program directors are familiar with the application procedure, which requires only that information necessary for efficient program administration.

(u) Specific Justification for a Multi-Year Approval: Not applicable.

[FR Doc. 80–4779 Filed 2–13–80; 8:45 am]

BILLING CODE 4110–89–M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of March 1980.

Minority Advisory Committee, ADAMHA, March 3–5, 9:00 a.m.—Open Meeting, Room 17–09B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Marta Sotomayor, Ph.D., Room 13C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3706.

Purpose: The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions on an advisory capacity to the Administrator, ADAMHA, on those matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda: On March 3, agenda items include discussion of administrative matters and Committee reports. Other agenda items include status reports on: Responses to recommendations of the first and second National minority conferences on minority group alcohol, drug abuse, and mental health issues; Phase II of the second Minority Manpower Development and Training Report; Hispanic initiatives; and the work plan for fiscal years 1980 and 1981. The remainder of the meeting will include discussions on the Indochinese and Asian Pacific American Consultations, a report on the President's Black College Initiatives and the renewal of the Minority Advisory Committee charter. Agenda items are subject to change as priorities dictate.

Rape Prevention and Control Advisory Committee, March 27–28, 9:00 a.m.—Open Meeting, Conference Room I, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Mary Lystad, Ph.D., Room 13A–44, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1910

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda: The entire meeting will be open to the public. The two-day meeting of the Advisory Committee will be devoted to providing input on future National Center programming in the areas of research dissemination and service demonstration. Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact persons listed above. The Deputy Director, Office of Communications and Public Affairs, ADAMHA, who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. James C. Helsing, Room 6C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3783. The NIMH Committee Management Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mrs. Zelia Diggs, Office of the Associate Director for Extramural Programs, NIMH, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: February 7, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80–4690 Filed 2–13–80; 8:45 am]

BILLING CODE 4110–88–M

Meeting Change

Mental Health Services Manpower Development Review Committee

In Federal Register Document 80–2377 appearing on page 6171 in the issue of Friday, January 25, 1980, the dates for the meeting of this committee have been changed from February 20–22, to February 19–22 beginning at 6:30 p.m. The meeting will be open to the public on February 20 from 5:00 to 6:15 p.m., instead of 9:00 to 10:00 a.m. as previously announced. All other arrangements for the meeting remain as announced January 25, 1980.

Dated: February 8, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80–4689 Filed 2–13–80; 8:45 am]

BILLING CODE 4110–88–M

Center for Disease Control

Nominees for Federal Advisory Committees

The Center for Disease Control (CDC) requests nominations of candidates, including women, minorities, and disabled persons, for consideration for appointment to Federal Advisory committees utilized by CDC. Qualified candidates would include experts from epidemiology, epidemiology of infant and meternal morbidities and mortalities, public health, preventive medicine, clinical medicine, particularly pediatrics and obstetrics and related fields. Individuals who have had successful experience in the design, implementation, or evaluation of disease prevention and health prevention and health promotion programs, as well as persons with experience in clinical research in the areas of obstetrics and perinatology, would be considered highly qualified.

Nominations received will be considered when staffing new committees which may be established, and when filling future vacancies on existing committees within CDC.

Nominations should be forwarded to: Godfrey P. Oakley, Jr., M.D., Bureau of Epidemiology (5-Chamblee), Center for Disease Control, Atlanta, Georgia 30333, Telephones: FTS: 236–4080, Commercial: 404/452–4080.

Dated: February 4, 1980.

William C. Watson, Jr.,

Acting Director, Center for Disease Control.

[FR Doc. 80–4739 Filed 2–13–80; 8:45 am]

BILLING CODE 4110–86–M

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Final Maximum Allowable Cost Determinations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Maximum Allowable Cost Determinations.

SUMMARY: In accordance with 45 CFR 19.5, the Pharmaceutical Reimbursement Board announces the following Final Maximum Allowable Cost (MAC) determinations:

Drug	MAC Limit [1]
Hydralazine HCl, 25 mg tablet	$0.0279
Hydralazine HCl, 50 mg tablet	$0.0384

[1] These MAC limits do not apply to unit dose packaging for institutional use.

DATES: The effective date of these MAC limits is March 31, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 1–C–5 East Low Rise, 6401 Security Boulevard, Baltimore, MD 21235.

SUPPLEMENTARY INFORMATION: The Pharmaceutical Reimbursement Board (PRB) has been established within the Health Care Financing Administration to set limits on payment or reimbursement for drug products under HCFA and other HEW programs. On April 10, 1979, the Board proposed MAC limits on 17 drug products. (See 44 FR 21367.)

The Board originally identified hydralazine tablets as part of the group of 17 multiple source drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. The Food and Drug Administration has advised the Board that there is no regulatory action, either pending or under consideration, that would be a reason for delaying or withholding the establishment of MACs on this group of drugs. In making the initial determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board relied on two sources: *Drug Topics Red Book*, and a HCFA survey. *Red Book* is an authoritative and well recognized listing of advertised prices. The HCFA survey is a summary, updated monthly, of pharmacy invoice prices obtained by HCFA under contract with IMS America. The HCFA survey price is based on the 70th percentile of invoice prices (unless otherwise indicated).

The Board received written comments and held a public hearing concerning MAC limits for these drugs on May 30, 1979.

The Board now announces final MAC determinations for the following products:

1. Hydralazine HCl, tablets, 10 mg. The Board voted not to propose a limit on this drug because of the small Departmental expenditure for this strength. The Board did note that this strength is advertised in the *Red Book* as being available from six distributors below the innovator's price.

2. Hydralazine HCl, tablets, 25 mg. The Board proposed a MAC limit of $0.0279 for this strength based upon the advertised *Red Book* price of Lederle Laboratories. There were 10 additional distributors who advertised this product in the *Red Book* below the recommended limit. The recommended MAC limit was above the 90th percentile of the HCFA survey for both units and lines of "all other" brands. The recommended MAC limit was also above the median and modal prices at which small independent pharmacies purchased "all other" brands of this product. The Board reviewed the MAC limits of seven states and found that there were four with state-imposed MAC limits in effect at or below the recommended level for this strength. The other three states had no MAC limit in effect for this strength.

3. Hydralazine HC1, tablets, 50 mg. The Board proposed a MAC limit of

$0.0384 per tablet for this strength. At this price level the product is advertised in the *Red Book* as being available from Lederle Laboratories and nine additional suppliers. The recommended MAC limit was above the 90th percentile of the HCFA survey for both units and lines of "all other" brands and above the median and modal prices at which small and medium sized independent pharmacies purchased the product. The board reviewed the MAC limits of seven states and found that there were four with state-imposed MAC limits in effect at or below the recommended level for this strength. The other three states had no MAC limit in effect for this strength.

1. General Comments. We received a number of general comments on the proposed MAC limits. One commenter suggested that the April 10, 1979 notice was a significant departure from the previous practice of the Board, in that some of the proposed MACs are based on direct purchase prices and the *Red Book* advertised prices. We note that, by regulation, the Board is to determine the lowest unit price at which a particular multiple source drug is widely and consistently available. The exact method or details of making these determinations are not specified. The Board has relied and continues to rely on the HCFA survey, which shows invoice prices of actual pharmacy transactions. We also believe that *Red Book* advertised prices are an important tool in determining the price levels at which drugs are available in the marketplace. These advertised prices represent the best estimate of maximum price levels, and actual delivered prices are often discounted from the advertised level. However, the Board has never relied solely on advertised prices. Even where advertised prices are the only figures available when a MAC is proposed, the Board has not established any MAC limits on such a drug in the absence of supporting information from the HCFA survey or information received during the comment period indicating the drug's availability. With regard to direct prices, the Board will use a direct price only if it is clear that a product is widely and consistently available at the direct price. We do not simply choose the lowest price found. The Board, therefore, does not consider its April 10, 1979 notice to be a departure from its earlier policies.

Another comment claimed that the MAC program was making Medicaid patients "second-class citizens", since pharmacists would not fill their prescriptions. The underlying premise of the MAC program is that for those drugs for which FDA has provided the required assurance, the generic products are the equivalent of the brand name products. Thus, the MAC program does not jeopardize the quality of drug therapy for Medicaid recipients. As for availability at the MAC levels, we believe that the MAC procedures, which include a significant element of public participation, provide assurance that MAC limits established are not so low that the product is not widely and consistently available. We do not claim that all sales of a drug are within MAC limits, but rather that the drug is widely and consistently available at the specified reimbursement limits.

Several comments suggested that the proposed MAC limits should not apply to drugs purchased in unit dose packages, since the product cost for these products often exceed the MAC limits, and are often available from only one source in this form. The Board acknowledges that the MAC limits can be inappropriate and should not be applied for drugs purchased in unit dose packaging for institutional use.

A pharmacist asked how frequently MAC limits would be updated. To this point, we have lowered four existing MACs based on changes in market data, and suspended four other announced limits when it became clear that our information was in error. We will continue to review the market data on all existing MACs and will adjust the limits as necessary.

A wholesaler from Florida, Lawrence Pharmaceuticals, provided a report on the availability of drugs at the proposed MAC limits. The report gathered information from none wholesalers and 241 pharmacies in Florida. The findings of this report are included in the comments on specific drugs in this notice (See 44 FR 50652).

One pharmacist expressed reluctance to dispense a generic product from a manufacturer he did not know. This pharmacist expressed the view that the name of the manufacturer should be on each label. The Board itself supports, but does not have the authority to require, manufacturer labeling. In the absence of such labeling, the Board accepts and confidently relies on FDA's assurances that there are no bioequivalence problems with the marketed drug products. As for the practicing pharmacist, if the name of the manufacturer is not on the drug label, he is free to contact his supplier to ascertain the product manufacturer.

2. HYDRALAZINE, 25 and 50 mg, tablets. One wholesaler stated that it stocked only brand name products and therefore, could not supply the product at the proposed MAC limits. A hospital commented that the product was not available at the proposed MAC levels.

As for availability at the MAC levels, the Board feels that the MAC procedures, which include a significant element of public participation, provide assurance that MAC limits established are not so low that the product is not widely and consistently available. The Board does not claim that all sales of a drug are within MAC limits, but that the drug is widely and consistently available at the MAC levels.

The Medicare and Medicaid programs were established to finance health care for the aged, the disabled and the poor. The Board believes that its proper function is to take advantage of existing price differences in the marketplace in order that Medicare and Medicaid patients will continue to receive quality care at competitive prices. An organization that elects to handle a more expensive brand of a product, when a less costly but equally effective product is widely and consistently available, is free to do so, but cannot expect to be compensated for not taking advantage of a competitive market or not recognizing that such competitive forces exist.

Three distributors supplied written comments stating that the drug product was available at or below the proposed MAC level.

The Lawrence Pharmaceuticals report indicated that one supplier stocked the Lederle product and three wholesalers stocked a brand within the MAC limits. The report also stated that a survey of retail pharmacies revealed that 71 pharmacies stocked the Lederle product, 61 stocked no generic product and 109 stocked one of five other generic brands.

In a March 6, 1979 letter to the Board, Lederle Laboratories (the 18th largest ethical pharmaceutical manufacturer in the United States) stated that it, "will be able to adequately distribute and supply such portions of the hydralazine (25 and 50 mg) market for those who would wish to purchase these products from Lederle. Further, we would be able, if deemed appropriate and necessary, to increase our capacity to distribute hydralazine, consistent, of course, with our other business commitments and product demands."

3. Bioavailability. Only Ciba-Geigy Corporation appeared and presented a statement at the May 30, 1979 public hearing. The pre-hearing statement submitted to the Board by Ciba-Geigy, stated that "Ciba-Geigy Corporation, the manufacturer and marketer of Apresoline (hydralazine) tablets, believes that MAC limits should not be established for hydralazine, because Ciba-Geigy alone has demonstrated the

biologic availability of its hydralazine products . . . unless and until all generic manufacturers of the drug generate adequate data to insure the biologic availability of their products, no MAC limits should be placed on hydralazine HCl tablets."

The Ciba-Geigy statement concluded that the FDA should have the opportunity to explain its prior actions relating to hydralazine, and the Board should have the benefit of the agency's opinions on the significance of those actions as they relate to the proposed establishment of a MAC. Ciba-Geigy requested that its statement be submitted to FDA for its review and requested that FDA provide a written response to be made a part of the record.

In a memorandum of February 28, 1979, the FDA provided the Board with the following determinations for hydralazine HCl 10, 25 and 50 mg tablets:

"This drug requires an approved new drug application for marketing. We are aware of no known or potential bioequivalence problem with this drug, and no bioequivalence requirement regulation is anticipated. There is a compendial standard for this drug which appears adequate. We know of no pending, regulatory or quality problem which should prevent or delay the establishment of a MAC limit for hydralazine HCl, 10, 25 and 50 mg tablets."

According to the FDA, Ciba-Geigy holds the original New Drug Application (NDA) for hydralazine HCl tablets, 10, 25 and 50 mg. There are three firms that hold approved Abbreviated New Drug Applications (ANDAs) for hydralazine HCl tablets, 10 mg; twelve firms that hold approved ANDAs for the 25 mg tablet and ten firms with approved ANDAs for the 50 mg tablet. FDA's Division of Biopharmaceutics has not requested *in vivo* bioequivalence data for hydralazine HCl tablets, because this drug does not appear to pose a bioequivalence problem. No problems have been reported in the literature or in ANDAs as to the biological availability of hydralazine HCl, 10, 25 and 50 mg tablets.

The FDA stated that no problems have been encountered or reported with regard to bioavailability of hydralazine HCl tablets, 10, 25 and 50 mg. Information available indicates there is no industry-wide problem with this dosage form and strength, and the Division of Biopharmaceutics has no evidence, from a biopharmaceutics view-point, to preclude the establishment of a MAC for the 10, 25 and 50 mg tablets of hydralazine HCl.

4. Therapeutic Failure. On May 29, after the period for written comments had closed, Ciba-Geigy Corporation submitted information concerning possible clinical failures of generic hydralazine. This new submission by Ciba-Geigy included an affidavit which contained allegations of six cases of therapeutic failure at Carswell Air Force Base (CAFB), Texas, of a generic hydralazine product manufactured by Lemmon Pharmacal Company and alleged that The Pharmaceutics and Therapeutics Committee at Andrews Air Force Base (AAFB), near Washington, D.C., had expressed concern over the quality of government supplied Lemmon hydralazine and had decided to discontinue its use in favor of the Ciba product obtained from local wholesalers.

Because the Ciba-Geigy affidavit raised issues that had a bearing on the safety and reliability of generic hydralazine and raised the possibility of danger to the public health, the Board accepted the late submission. At the May 30, 1979 public hearing, the Board stated that the record on hydralazine would remain open until the FDA had an opportunity to evaluate the late submission.

At the hearing, the Board requested the FDA to review the Ciba-Geigy late submission. (See 44 FR 50651.) At that time, the record on all of the other drugs in the MAC group was closed.

In response to the Board's request, the FDA conducted an investigation concerning Ciba-Geigy's supplemental statement of May 29, 1979, alleging therapeutic failures of generic hydralazine tablets at CAFB and quality problems at AAFB.

According to the FDA report, investigators from FDA's Dallas, Texas field office visited CAFB and interviewed Dr. VanBuskirk, the physician who reported the lack of effectiveness of the hydralazine product; investigators from the agency's Baltimore field office visited and interviewed members of the Pharmaceutics and Therapeutics Committee at Andrews Air Force Base (AAFB) hospital; and samples of the suspect lots were analyzed in FDA laboratories.

As a result of its detailed investigation, the FDA concluded that the allegations made by Ciba-Geigy in its May 29 supplemental statement to the Board were clearly not substantiated. Specifically, J. Richard Crout, M.D., Director, Bureau of Drugs, Food and Drug Administration, stated in the FDA report regarding the investigation, "I have personally reviewed the case reports from the Carswell Air Force Base hospital. The data show only one occasion in one patient when the blood pressure increased significantly in association with the use of generic hydralazine—the May 14, 1979 office visit of patient 1–e (erroneously typed as 1–3 in the investigator's report of June 12, 1979). The blood pressure changes in all other patients are either typical of the variation that occurs from day to day in hypertensive patients or not correlated in time with the use of any particular brand of hydralazine. In patient 1–e the isolated blood pressure increase found on May 14, 1979 was under control again on May 18, 1979. While the cause of this transcient increase is unknown, such changes are not infrequent in hypertensive patients. One such episode in one patient cannot reasonably be taken as evidence of 'therapeutic failure,' especially when the product is apparently working in many other patients in the same clinic."

In a June 12, 1979 letter from Lemmon Pharmacal Company to the Board, the company stated that Ciba-Geigy's allegations of the therapeutic insufficiency of "Lemmon hydralazine" as put forward in the May 29, 1979 affidavit of Henry C. Kirsch, ". . . are unwarranted and constitute an irresponsible act." The Lemmon letter pointed out that on June 4, 1979, it received a letter from the Defense Logistics Agency (DLA) (Headquarters, Defense Personnel Support Center, Philadelphia) reporting a complaint by a physician at Carswell Air Force Base, concerning Lemmon hydralazine.

In response to the DLA letter, Lemmon contacted Dr. VanBuskirk, who initiated the complaint. According to the Lemmon letter: "The physician offers a far different version of the situation from that attributable to CIBA. The physician informed Lemmon that of the six patients referred to in the letter, one patient who did not respond to Lemmon Hydralazine, responded after a one week treatment to Apresoline. A second patient, who had been switched from Lemmon Hydralazine to Apresoline, had not returned for a follow up procedure and, therefore, no evidence of response to either Lemmon Hydralazine or Apresoline was available. With respect to the other four cases, the information regarding the alleged non-responsiveness to Lemmon Hydralazine was reported by the physician as not being clear cut.

"The physician expressed his opinion that the possible lack of effectiveness could have been only a random, isolated instance, wholly unrelated to the source of the hydralazine hydrochloride

administered, or could have been caused by a specific gastrointestinal situation which could render any hydralazine hydrochloride product insufficiently bioavailable. The physician further reported that as many as 150 patients served by the Carswell facility were currently under treatment with Lemmon Hydralazine."

With regard to the allegations contained in Ciba-Geigy's submission that Andrews Air Force Base had expressed concern over the quality of the depot-supplied Lemmon hydralazine product and had decided to purchase Apresoline and discontinue the use of Lemmon hydralazine, the June 12, 1979 Lemmon letter stated:

"Lemmon Company has not received any complaint regarding the Andrews Air Force Base incident from the Defense Logistics Agency. On June 11, 1979, Lemmon Company contacted a pharmacy technician at Andrews Air Force Base who informed Lemmon that he was fully familiar with Lemmon Hydralazine and the reason the base hospital had decided to discontinue the use of Lemmon Hydralazine. The technician advised Lemmon that the concern regarding Lemmon Hydralazine did not have anything to do with efficacy and that there were no reported instances that Lemmon Hydralazine was therapeutically insufficient."

In a November 16, 1979 letter to the Board, Ciba-Geigy stated that it would not challenge FDA's determination that the alleged instances of therapeutic failure of generic hydralazine at Carswell Air Force Base were unsubstantiated.

The Ciba-Geigy letter of November 16, 1979, stated that the company continued to believe that all manufacturers of hydralazine should be required to demonstrate the bioavailability of their products.

Ciba-Geigy further stated that it did not agree with the conclusion that establishing a MAC for hydralazine tablets was now appropriate. In the absence of bioavailability data, Ciba believed, ". . . it is impossible to make any conclusive determination concerning the interchangeability of hydralazine tablets manufactured by one company with those of another." The Ciba letter further stated that without such demonstrated interchangeability, the imposition of a MAC cannot be deemed to safeguard the public health. This, according to Ciba, is so because the imposition of a MAC, "would mandate" the switching of patients from one hydralazine product to another without an attendant guarantee of product equivalence.

In response to the Board's request, as previously noted, the FDA stated in its memorandum of February 28, 1979 that it was aware of no known or potential bioequivalence problem with hydralazine and no bioequivalence requirement regulation is anticipated. It also stated that a compendial standard exists for the drug which appears adequate and knows of no pending regulatory or quality problem which would delay or prevent the establishment of a MAC limit for hydralazine HCl, 10, 20 and 50 mg tablets.

The FDA, in response to the Ciba-Geigy presentation at the public hearing on May 30, 1979, re-stated its position on hydralazine; ". . . the matter of determining whether or not subsequent manufacturers should provide bioequivalence data on hydralazine hydrochloride products should be based upon scientific need for such data. The Ciba-Geigy argument that because they performed a bioavailability study on their product, other firms should do bioequivalence studies on their (own) products is without merit."

FDA's position that it found no reason to delay the establishment of a MAC limit for hydralazine has remained constant throughout these proceedings.

On November 6, 1979, the Board published the last opportunity for public comments on the proposed MAC limits on hydralazine 25 and 50 mg tablets, before the closing of the record. (See 44 FR 64118). As an appendix of the November 6, 1979 announcement, the Board included two FDA reports on hydralazine. The two FDA reports, provided the Board, on hydralazine are included as an appendix to this notice. The closing date for receipt of comments was listed as November 21, 1979.

On December 11, 1979, the Board reviewed the entire record pertaining to hydralazine and was not persuaded that it should alter its original position. In view of the original memorandum from FDA stating that: 1) there were no known or potential bioequivalence problems, 2) no bioequivalence requirement regulation is anticipated by the agency, 3) an adequate compendial standard exists for the drug, 4) the FDA knows of no pending regulatory or quality problem, and 5) the FDA investigation into the Ciba-Geigy late submission found no evidence that could substantiate the allegations put forward by Ciba-Geigy, the Board found no reason to further delay the establishment of a MAC limit.

At the December 12, 1979 meeting, the Board voted to establish a proposed final MAC limit of $0.0279 per tablet for hydralazine 25 mg and $0.0384 per tablet for hydralazine 50 mg.

The Administrator of HCFA concurred on February 8, 1980.

Dated: February 1, 1980.

Charles S. Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

Dated: February 8, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

[FR Doc. 80-4778 Filed 2-13-80; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Chiricahua Apaches; Plan for the Use and Distribution of the Chiricahua Apaches Judgment Funds in Docket 182 and 182-A Before the Indian Claims Commission

February 1, 1980.

This notice is published in exercise of authority delegated by Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (P.L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on April 20, 1979, in satisfaction of the award granted to the Chiricahua Apaches in Indian Claims Commission Dockets 182 and 182-A. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated October 12, 1979, and was received (as recorded in the Congressional Record) by the House of Representatives on October 12, 1979 and by the Senate on October 16, 1979. Congress not having adopted a resolution disapproving it, the plan became effective on December 20, 1979, as provided by Section 5 of the 1973 Act, *supra*.

The plan reads as follows:

"The funds appropriated on April 20, 1979, in satisfaction of a compromise granted to the Chiricahua Apache Indians in Dockets 182 and 182-A, consolidated, before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.

Sixty-nine (69) percent of the funds shall be distributed by the Secretary of the Interior (hereinafter 'Secrtary') to the

Mescalero Apache Tribe, Mescalero Reservation, New Mexico, and thirty-one (31) percent of the funds shall be distributed by the Secretary to the Fort Sill Apache Indian Tribe of Oklahoma. The amount due the Fort Sill Apache, in satisfcation of funds advanced by both tribes to pay for expert witnesses in litigating their claims, will be transferred from the Mescalero Apache share and added to the Fort Sill Apache share in accordance with the distribution formula agreed upon by both tribes.

Share of the Fort Sill Apache Tribe (31%)

Per Capita Payment Aspect

Eighty (80) percent of the funds shall be distributed by the Secretary in the form of per capita payments, in a sum as equal as possible, to all persons duly enrolled as tribal members and born on or prior to and living on the effective date of this plan. The per capita shares of living competent adults shall be paid directly to them. Shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. Shares of legal incompetents shall be handled pursuant to 25 CFR 104.5. Shares of minors shall be handled pursuant to 25 CFR 60.10 (a) and (b)(1) and 104.4.

Programing Aspect

The remaining twenty (20) percent of the funds shall be programed as follows:

Land Acquisition

$150,000 shall be used for the purpose of acquiring land to be held by the United States in trust for the use and benefit of the tribe. Any income, rental or profits derived or realized from such land or its use shall be used for acquiring additional land to be held in trust for the tribe or shall be used for the purpose of making a dividend payment to tribal members if income realized from such land is determined by the tribe to be in excess of the amount needed for additional land purchase or if tribal members, at a General Council meeting, determine that an additional land purchase is not desirable. All such dividend payments shall be subject to the approval of the Secretary.

Tribal General Counsel

$50,000 shall be programed to cover the fees and expenses of selected tribal attorneys. Effective as of July 16, 1979, the tribe entered into an agreement extending and amending the attorney contract between the Tribe and the law firm of Fellers, Snider, Blankenship, Bailey & Tippens, Inc., Oklahoma City, Oklahoma. Said contract, as amended, has been extended for an additional period of three years to July 16, 1982.

Building Maintenance

The tribe previously has acquired land in trust upon which to construct a tribal affairs building. The tribe has also made application to the Economic Development Administration, U.S. Department of Commerce, for a public works grant in the amount of $200,000 to aid in the construction of such a building. $50,000 shall be programed for the purpose of maintaining said tribal property and facilities including, but not limited to, such items as insurance, utilities, and upkeep costs.

Remainder of Programed Funds

The remainder of the twenty (20) percent of the judgment funds to be programed shall be invested by the Bureau of Indian Affairs in a tribal account. Said funds, or any part thereof, including interest and investment income accruing thereon, may be withdrawn and used as authorized by the tribal government body, and approved by the Secretary, to provide social, economic, or educational benefits for enrolled tribal members, or for other purposes, including building maintenance of a tribal affairs building.

Unobligated Plan Balances

Any amount remaining in this plan shall be transferred to and become a part of the Remainder of Programed Funds item.

Share of the Mescalero Apache Tribe (6[9]%) Per Capita Payment Aspect

Funds shall be distributed by the Secretary to enable a per capita payment not to exceed $1,000 to be made to all persons duly enrolled as tribal members and born on or prior to and living on the effective date of this plan. The per capita shares of living competent adults shall be paid directly to them. Shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. Shares of legal incompetents shall be handled pursuant to the provisions of Public Law 95–433, 92 Stat. 1047, and in accordance with a family plan adopted by the Mescalero Apache Tribe in Resolution No. 79–21, and approved by the Bureau of Indian Affairs.

Programing Aspect

The remaining funds shall be programed as follows:

Purchase of Musical Instruments

Ten thousand dollars ($10,000) shall be utilized for the purchase of musical instruments for Mescalero Apache boys and girls participating in music classes.

Head Springs Picnic Area Shelter

Fifty thousand dollars ($50,000) shall be utilized for the erection of a new multi-purpose structure at the Head Springs recreation area for picnics, meetings and conferences.

Tribal Car Pool Yard

Twenty thousand dollars ($20,000) shall be utilized for a tribal car pool yard to enable the Tribe to park and concentrate all tribal vehicles in one general area.

Community Auditorium

Five hundred thousand dollars ($500,000) shall be used to erect a community auditorium of adequate size and design to adequately promote community programs and activities.

Public Works Crew

Twenty thousand dollars ($20,000) shall be used to pay the salaries of a public works crew, to be organized for the summer months only, to make needed community repairs.

Investment Trust Fund

Six hundred sixty-six thousand dollars ($666,000), and the income therefrom shall be placed in a non-speculative portfolio and administered by a professional investment counselor at the discretion of the Mescalero Apache Tribal Council. The principal of this investment fund is to be maintained intact in perpetuity to produce an annual income which may be utilized by the Mescalero Apache Tribal Council in accordanced with Articles XI and XIII of the revised Constitution of the Mescalero Apache Tribe. It is the intention of the Mescalero Apache Tribal Council to advance the social and economic welfare of all tribal members and reserve for future membership a source of income through investments. In order to maintain and support this policy the programs that are approved herein shall not be changed nor any funding approved, accrued interest income excepted, without the expressed approval of the voting adult members of the Tribe.

Unobligated Plan Balances

Any amount remaining in this plan in any of the items budgeted, after the costs of a proposed project or program have been met, shall be transferred to and become part of the Investment Trust Fund. The provisions governing the Investment Trust Fund shall apply to any amount so transferred.

General Provisions

None of the funds distributed per capita or made available under the programing aspects of the plan shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for assistance under Federal, State or local programs.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-4679 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-02-M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

February 5, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Lumbee Regional Development Association, Inc., East Main Street, Post Office Box 68, Pembroke, North Carolina 28372, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on January 7, 1980. The petition was forwarded and signed by Mr. Roderick G. Locklear.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under Section 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Rick C. Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-4678 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[M 31053(ND)]

Coal Lease Offering by Sealed Bid

February 5, 1980.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. Notice is hereby given that at 2 p.m., March 19, 1980, in the Conference Room on the 6th Floor of the Granite Tower Building, the coal resources in the tract described below will be offered for competitive lease by sealed bid to the qualified bidder of the highest cash amount per acre. No bid will be considered which is less than $25/acre and no bid will be accepted for less than fair market value as determined by the authorized officer. This offering is being made as a result of an application filed by the Falkirk Mining Company in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101).

Bids received after 2 p.m. on the day of the sale will not be considered. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received at the above address before 2 p.m., March 19, 1980. The successful bidder is obligated to pay for the newspaper publication of this Notice.

Coal Offered. The tract is located in McLean County approximately one-half mile west of Underwood, North Dakota, and contains 160.00 acres:

T. 146 N., R. 82 W., 5th P.M.
Sec. 20: NW¼

The surface of the land to be offered for coal lease sale is owned by a qualified surface owner as defined in Section 714 of the Surface Mining Control and Reclamation Act (SMCRA) of 1977 and 43 CFR 3400.0-5(pp). The surface owner has consented to surface mining through a nontransferable surface lease executed prior to enactment of SMCRA. This surface lease is held by the applicant for this competitive coal lease sale as lessee and covers fee surface and mineral rights on other lands as well as the surface of the land offered in this lease sale. This preexisting surface lease satisfies the surface owner consent requirements of SMCRA and 43 CFR 3427. The terms and conditions of this surface lease are attached to the Detailed Statement of the Lease Sale.

The coal resources offered are limited to all strippable reserves of the HT Butte seam. Geological Survey has reported that the tract contains an estimated total of 2.14 million tons of strippable reserves. The HT Butte seam averages 9 feet thick over the described lands. The coal is lignite A and averages (as-received) 6,600 Btu/lb. with 39 percent moisture, 0.6 percent sulfur and 6 percent ash. The coal resources are within the Knife River Known Recoverable Coal Resource Area.

Rental and Royalty. The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States at the rate of 12.5 percent of the value of coal mined by surface methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Detailed Statement of Sale. A detailed statement of the sale, including bidding instructions and the terms of the lease, is available at the office listed above. All case file documents and written comments submitted by public on fair market value or royalty rates, except those portions identified as proprietary which meet the exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management Office at the address given above.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-4680 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-84-M

Decision on Special Wilderness Inventory on Five Natural Areas

The Bureau of Land Management in Nevada has conducted an accelerated wilderness intensive inventory on 5 designated natural areas (instant study areas) to determine whether or not wilderness values are present in each area.

A public comment period was held on the proposed decision that none of the designated lands contained wilderness values as specified by Section 2 (C) of the Wilderness act of 1964 (78 Stat. 891). The State Director has reviewed the public comments received and has concluded that none of the areas involved have wilderness values. The areas involved are the designated lands known as the Pine Creek Natural Area (150 acres) within NV-050-0414, Pinyon-Joshua Transition Natural Area (560 acres) within NV-050-0337 and NV-050-0338A, Heusser Mountain Bristlecone Pine Natural Area (480 acres) with NV-040-048A, Goshute Canyon Natural Area (7,650 acres) within NV-040-015, and Lahontan Cutthroat Trout Natural

Area (12,316 acres) within NV–020–622 and NV–020–617. Natural area status will remain on all five areas.

A formal 30-day waiting period will commence on February 19 and conclude on March 19 in which protests to these decisions may be filed with the Nevada State Director. Protests must be written and received by the Nevada State Office, Bureau of Land Management, no later than 4:00 p.m. on March 19. They should list the name of the area and unit number involved and include a statement specific to wilderness characteristics as stated in Section 2 (C) of the Wilderness Act of 1964 (78 Stat. 891). Unless protests are received, these decisions will be implemented on March 20, 1980.

It is important to note that the Bureau's decision is the result of an inventory which was limited to the legally designated acreage of each natural area, not on any surrounding lands. The surrounding lands will be analyzed with the statewide intensive inventory, now being conducted, and a 90-day public comment period on the Bureau's findings will begin in April, 1980. At that time, these five natural areas will be assessed again in the context of the entire area to determine if they have wilderness characteristics when considered with the contiguous land that may not be a part of the designated natural areas, but is a part of the same roadless area.

For further information on this decision, contact the State Director, 300 Booth Street, Room 3008, Reno, Nevada, 89509.

Dated: February 4, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 4681 Filed 2–13–80; 8:45 am]

BILLING CODE 4310–84–M

Decision on Special Wilderness Inventory Conducted in the Cedar Ridge Area of Elko County, Nev.

In a **Federal Register** notice published on December 12, 1979, the Bureau of Land Management issued a proposed decision on the results of an accelerated inventory conducted on unit NV–010–088A. This area had originally been identified as a part of unit 010–088, the Cedar Ridge Wilderness Study Area. A road was found to separate the two units after the original inventory decision had been issued.

A public comment period has been held on the BLM's proposed decision that unit 010–088A does not contain wilderness values. After evaluating the public comments received, the State Director has concluded that all 4,650 acres in unit 010–088A do not contain wilderness values and the unit is dropped from further wilderness review with the restrictions imposed by Section 603 of the Federal Land Policy and Management Act no longer in effect. Unit 010–088 remains a wilderness study area and consists of 9,430 acres.

A formal waiting period will commence on February 19 and conclude on March 19 in which protests to the decision that 010–088A does not contain wilderness values may be filed with the Nevada State Director. Protests must be written and received by the Nevada State Office, Bureau of Land Management, no later than 4:00 p.m. on March 19.

Protests should include a statement which is specific to wilderness characteristics, as stated in Section 2(c) of the Wilderness Act of 1964 (78 Stat. 891). Unless protests are received, this decision will be implemented on March 20, 1980.

For further information on this decision, contact the State Director, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nevada, 89509.

Dated: February 4, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 80–4683 Filed 2–13–80; 8:45 am]

BILLING CODE 4310–84–M

Decision on Two Special Wilderness Inventories

A **Federal Register** notice published on November 29, 1979 announced that two accelerated intensive wilderness inventories on public land areas in the Battle Mountain and Las Vegas Districts had been conducted. A public comment period was held on the Bureau's proposed decision that neither "Hickison" NV–060–386 (23,254 acres) nor "Macks Canyon" NV–050–0408 (48,745 acres) contains wilderness values.

After evaluating all comments received, the Nevada State Director has concluded that neither area contains wilderness attributes as stated in Section 2(c) of the Wilderness Act of 1964 (78 Stat. 891). The restrictions imposed by Section 603 of the Federal Land Policy and Management Act will be removed from both of these areas.

A formal 30-day waiting period will commence on February 19 and conclude on March 19 in which protests to these decisions may be filed with the Nevada State Director. Protests must be written and received by the Nevada State Office, Bureau of Land Management, no later than 4:00 p.m. on March 19. They should list the unit number of the area protested and include a statement specific to wilderness characteristics identified in Section 2(c) of the Wilderness Act of 1964. Unless protests are received, these decisions will be implemented on March 20, 1980.

For further information on these decisions, contact the State Director, Room 3008, Federal Building, 300 Booth Street, Reno, Nevada 89505.

Dated: February 4, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 80–4682 Filed 2–13–80; 8:45 am]

BILLING CODE 4310–84–M

Alaska Outer Continental Shelf; Revised Locations and Dates of Public Hearings Regarding Proposed OCS Oil and Gas Lease Sale No. 46

In accordance with 43 CFR 3314.1, public hearings will be held in Kodiak and Anchorage, Alaska for the purpose of receiving comments and suggestions relating to the draft environmental statement concerning a proposed Outer Continental Shelf (OCS) oil and gas lease sale offshore Kodiak, Alaska.

The hearing that was to be held in Kodiak, Tuesday, February 5, 1980, has been rescheduled and will be held on March 6, 1980, in the Borough Assembly Chambers. It will begin at 10 a.m. and adjourn at 5 p.m. The hearing will reconvene at 6:30 p.m. and conclude when all those present who wish to testify have done so.

The hearing that was to be held in Anchorage, Thursday, February 7, 1980, has also been rescheduled and will now be held on Tuesday, March 4, 1980, at the Sheraton Anchorage Hotel. It will begin at 9 a.m. and conclude at 4:30 p.m., or earlier if all scheduled witnesses have testified, and all those present who wish to testify, have done so.

The hearings will provide the Secretary of the Interior with additional information from government agencies and public and private sectors to help evaluate the potential effects of the proposed offering of 564 tracts east and southeast of Kodiak Island, Alaska. Comments are solicited concerning the effects of exploration, development and production resulting from the proposed sale on the marine, cultural, recreational and other resources of the Kodiak region.

The draft environmental statement concerning proposed Sale No. 46 was made available to the public on December 7, 1979. Copies of this statement can be obtained from the Bureau's Alaska Outer Continental Shelf Office, P.O. Box 1159 Anchorage, Alaska 99510, and from the Office of Public

Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Interested individuals, representatives of organizations, and public officials wishing to testify at the hearings are requested to contact the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management at the above address by 4 p.m., Friday, February 29, 1980. Written comments from those unable to attend the hearings should also be addressed to the Manager, Alaska Outer Continental Shelf Office, at the above address. The Bureau will accept written comments on the draft environmental statement until 4 p.m., Friday, March 14, 1980. This will allow an opportunity for those unable to testify at the hearing to submit supplemental materials. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which should be submitted to a hearing official at the time of oral presentation. Written statements will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After all testimony and comments have been received and considered, a final environmental statement will be prepared.

Ed Hastey,

Associate Director, Bureau of Land Management.

February 8, 1980.

[FR Doc. 80-4704 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-84-M

Gulf of Mexico Outer Continental Shelf Oil and Gas; Intent to Prepare a Combined Environmental Impact Statement for OCS Sales A66/66

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management's New Orleans Outer Continental Shelf Office intends to prepare an environmental impact statement (EIS) on the offshore oil and gas leasing proposals known as OCS Sales A66 and 66. Proposed sale A66 is tentatively scheduled for July 1981, and may include OCS lease blocks offshore Louisiana and Texas. A list of 176 lease blocks (approximately 898,241 acres) in this area has been tentatively selected for leasing consideration and further environmental study. Proposed sale 66 is tentatively scheduled for October 1981, and may include OCS lease blocks offshore Florida, Alabama, Mississippi, and Louisiana. A list of 209 lease blocks (approximately 1,081,552 acres) has been tentatively selected for this sale.

Alternatives to be considered in the environmental statement will include options to modify, delay, or cancel the proposed lease offerings.

A series of meetings was held to promote public participation in defining the significant issues that relate to the proposed sales. These meetings were held in Fort Myers, Florida on December 10, 1979; Bradenton, Florida and Austin, Texas on December 11, 1979; Corpus Christi, Texas and Mobile, Alabama on December 12, 1979; and in Lafayette, Louisiana on December 13, 1979. Attendance at the meetings was extremely low and public comment was generally favorable.

For further information regarding proposed OCS sales A66 and 66, contact Douglas Elvers, Chief, Environmental Assessment division, New Orleans Outer Continental Shelf Office, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130, 504-589-6541 (FTS 682-6541).

Approved: February 1, 1980.

Ed Hastey,

Associate Director, Bureau of Land Management.

James W. Curlin,

Deputy Assistant Secretary of the Interior.

[FR Doc. 80-4703 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-84-M

[F-14903-A]

Alaska Native Claims Selection

The State of Alaska filed general purposes selection application F-024122, as amended, on September 23, 1959, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)). On November 30, 1959, the State of Alaska filed mental health selection application F-024515, under the provisions of the Act of July 28, 1956, as supplemented. Both of these applications selected lands in the core township for the village of Nenana.

Section 11 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696; 43 U.S.C. 1601, 1610 (1976)) (ANCSA), withdrew the lands surrounding the village of Nenana for Native selection.

On November 7, 1974, Toghotthele Corporation, for the Native village of Nenana, filed selection application F-14903-A, as amended, under the provisions of Sec. 12 of ANCSA for the surface estate of certain lands in the vicinity of Nenana.

The village corporation selected lands which were withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA. Section 11(a)(2) specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by Sec. 11(a)(1) that had been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)).

Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

The following described lands, which are State selected, have been properly selected under village selection application F-14903-A. Accordingly, the State selection applications identified below are rejected as to the following described lands:

STATE SELECTIONS F-024122 and F-024515

Fairbanks Meridian, Alaska (Surveyed)

T. 4S., R. 8 W.
Sec. 2, SW¼NW¼;
Sec. 3, S½NE¼SE¼;
Sec. 10, lot 1;
Sec. 11, NE¼SW¼, W½SE¼, W½E½SE¼;
Sec. 12, E½E½SW¼, SE¼;
Sec. 13 lot 2 and NE¼NW¼;
Sec. 25, SE¼;
Sec. 35, lots 2 [Cemetary Reserve Survey No. 1150), 3 and 4.

Containing 762.28 acres.

The State selected lands rejected above aggregate 762.28 acres, of which none were valid mental health selections, and 602.28 acres were not valid general purposes selections which will not be charged against the village corporation as State selected lands. Further action on the subject State selection applications as to those lands not rejected herein will be taken at a later date.

The total amount of lands which have been properly selected by the State, including any selection applications previously rejected to permit conveyances to Toghotthele Corporation is approximately 55,054 acres, which is less than the 69,120 permitted by Sec. 12(a)(1) of ANCSA.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands,

selected pursuant to Sec. 12(a) of ANCSA, aggregating 762.28 acres, is considered proper for acquisition by Toghotthele Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Fairbanks Meridian, Alaska (Surveyed)

T. 4 S., R. 8 W.
Sec. 2, SW¼NW¼;
Sec. 3, S½NE¼SE¼;
Sec. 10, lot 1;
Sec. 11, NE¼SW¼, W½SE¼, W½E½SE¼;
Sec. 12, E½E½SW¼, SE¼;
Sec. 13, lot 2 and NE¼NW¼;
Sec. 25, SE¼;
Sec. 35, lots 2 (Cemetery Reserve Survey No. 1150), 3 and 4.

Containing 762.28 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F–14903–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

100 Foot Road—The uses allowed on a one-hundred (100) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles and trucks.

a. (EIN 30 C5) An easement for an existing road one-hundred (100) feet in width, through the S½ of Sec. 11, T. 4 S., R. 8 W., Fairbanks Meridian. The uses allowed are those listed above for a one-hundred (100) foot wide road easement.

b. (EIN 31 C5) An easement thirty (30) feet in width for an existing powerline through the SE¼ of Sec. 11, T. 4 S., R. 8 W., Fairbanks Meridian. The uses allowed are those activities associated with the construction, operation and maintenance of the powerline facility.

The grant of the above-described lands shall be subject to: 1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

2. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

3. An easement for highway purposes, including appurtenant protective, scenic, and service areas, extending 150 feet each side of the centerline of the Fairbanks-Nenana Highway, as established by Public Land Order 1613 (23 FR 2376), pursuant to the Act of August 1, 1956 (70 Stat. 898), and transferred to the State of Alaska pursuant to the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141), as to: Sec. 2, SW¼NW¼; Sec. 3, S½NE¼ SE¼; and Sec. 10, lot 1 of T. 4 S., R. 8 W., Fairbanks Meridian; and

4. A right-of-way, F–025023, for a Federal aid material site, located in the NW¼SW¼NW¼ of Sec. 2, T. 4 S., R. 8 W., Fairbanks Meridian. (Sec. 17 of Federal Highway Act of November 19, 1921 (42 Stat. 216; 23 U.S.C. 18)).

Toghotthele Corporation is entitled to conveyance of 138,240 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 56,068 acres. The remaining entitlement of approximately 82,172 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited when the surface estate is conveyed to Toghotthele Corporation, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until March 17, 1980 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Toghotthele Corporation, Nenana Village Corporation, Box 322, Nenana, Alaska 99760.
Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.
State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Judith Kammins Albietz,
Chief, Division of ANCSA Operation.

[FR Doc. 80–4709 Filed 2–13–80; 8:45 am]
BILLING CODE 4310–84–M

[C–16540]

Colorado; Order Providing for Opening of Public Land

February 7, 1980.

1. Public Land Order 5262, October 14, 1972 (FR Doc 72–16428), **Federal Register** September 27, 1972 revoked Power Site Reserves 116 and 253 and Stock Driveway Withdrawal No. 2, Colorado, to the extent they affected the following lands and classified them for exchange under Section 8, Act of June 26, 1934, as amended, 43 U.S.C. 315 (g) (1970).

T. 5 S., R. 81 W., 6th P. M.
Section 14: Lots 1, 2, and 12 (now described as Lots 16*, 17, 18, 19*, 20, 21*, 22, 23, 24 by plats of survey and resurvey accepted Sept. 29, 1975)
Section 22: W½NW¼

(*These lots subsequently patented via land exchange. The remainder are public lands.)

2. The classification for exchange is hereby revoked.

3. At 10 a.m. on March 21, 1980 the lands shall be open to the public land laws, including the United States mining laws, subject to valid existing rights. Inquiries concerning these lands may be made to Bureau of Land Management, Colorado State Office, 700 Colorado State Bank Building, Denver, CO 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 80-4727 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-84-M

[29315]

Colorado; Invitation for Coal Exploration License—Wyoming Fuel Co.

February 6, 1980.

Members of the public are hereby invited to participate with Wyoming Fuel Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Jackson County, Colorado:

T. 8 N., R. 78 W., 6th P.M.
Sec. 3: Lots 8, 9, 16, 17, 18
Sec. 4: Lots 5, 12, 13
Sec. 10: NE¼NE¼NE¼, W½E½NE¼, W½NE¼, N½NW¼, SE¼NW¼
T. 9 N., R. 78 W., 6th P.M.
Sec. 20: SW¼NE¼, NW¼, SE¼
Sec. 21: SW¼SW¼
Sec. 22: SW¼NE¼, NW¼, E½SW¼, W½SW¼, SE¼SE¼
Sec. 29: Lots 1 thru 5
Sec. 30: SE¼NE¼
Sec. 33: NE¼, E½SE¼
Sec. 34: Lots 5, 12, 13, 14
Containing 1,964.77 Acres, more or less.

Any party electing to participate in this proposed program must send written notice of that election to the Bureau of Land Management and Wyoming Fuel Company, directed to the following persons at the addresses shown: Leader, Craig Team, Branch of Adjudication, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202 and James A. Miller, Wyoming Fuel Company, 12055 West Second Place, P.O. Box 15265, Lakewood, CO 80215.

Such written notice must be received by the above indicated persons at the addresses shown on or before March 17, 1980.

The proposed exploration program is more fully described in and will be conducted pursuant to an exploration plan, as such is approved by the U.S. Geological Survey and the Bureau of Land Management, agencies of the Department of the Interior. A copy of the exploration plan, as submitted by Wyoming Fuel Company, is available for public review during normal business hours in the following office, under Serial Number C-29315: Bureau of Land Management, Room 701, Colorado State Bank Building, 1600 Broadway, Denver, Colorado.

The foregoing notice is published in the **Federal Register** pursuant to 43 CFR 3410.2-1(d)(1), 43 FR 42584 at 42614 (No. 140, July 19, 1979).

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 80-4728 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-84-M

[3425; U-37045 (U-942)]

Coal Lease Offering by Sealed Bid and Oral Auction

February 7, 1980.

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that at 2:00 p.m., MST, March 10, 1980, certain coal resources in the lands hereinafter described in Carbon County, Utah, will be offered for competitive lease by sealed bid of $521.53 per acre or more followed by oral auction to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). However, no bid will be accepted for less than fair market value as determined by the authorized officer.

The sale will be held in Room 1408 of the University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. No sealed bids received after 2:00 p.m., MST, March 10, 1980, will be considered.

Coal Offered: The coal resource to be offered is located in the Wasatch Plateau Known Recoverable Coal Resources Area in Carbon County, Utah, approximately 3 miles northwest of Wattis, Utah. The surface overlying the coal is federally owned and is within the area administered by the Moab District Office. The lands are described as follows:

T. 15 S., R. 8 E., SLM, Utah
Sec. 5, lots 4, 5, 12, NW¼SW¼;
Sec. 6, lots 2, 3, 6, 7, 9, 10, 11, 14, E½SW¼, SE¼;
Sec. 7, NE¼NE¼;
Sec. 8, NW¼NW¼.
Containing 697.26 acres.

Coal is contained in the Blackhawk Formation of the Upper Cretaceous Mesaverde Group. The Third Bed is the only bed of interest in the tract at this time. The estimated total underground reserves are 1.95 million tons. The coal quality is as follows: Btu—11,500 to 12,290 per pound; Sulfur—.6 to 85 percent; and Ash—6.3 to 9 percent. The Third Bed averages 6.8 feet thick.

The lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty payable to the United States.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on fair market value or royalty rates, except those portions identified as proprietary by the commentor and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Gary J. Wicks,

State Director.

[FR Doc. 80-4733 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

[INT DES 80-3]

Availability of Proposed General Management Plan and Supplement To Draft Environmental Statement; Proposed General Management Plan for Yosemite National Park, Calif.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a supplement to a draft environmental statement p43569, filed September 26, 1978, and a revision to the proposed General Management Plan, Yosemite National Park.

The revised plan proposed a substantial change in the management strategy for the park. The supplement evaluates the impact of the relocation of park and concession administrative

facilities from Yosemite Valley to Wawona, instead of to an administrative site at El Portal, outside the park. It also includes responses to the concerns of other agencies and the public that were expressed during the review of the draft environmental statement.

Written comments on the supplement and revised plan are invited and will be accepted for a period of forty-five (45) calendar days following the notice of filing with the Environmental Protection Agency. Comments should be addressed to the Superintendent, Yosemite National Park.

Copies of the draft environmental statement, supplement, and revised plan have been distributed to Federal, State and local agencies, libraries, organizations, and individuals known to be interested in the long-term management of Yosemite National Park. Limited additional copies are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102.
Los Angeles Field Office, National Park Service, 300 North Los Angeles Street, Room 1013, Los Angeles, California 90012.
Yosemite National Park, P.O. Box 577, Yosemite, California 95389.

Dated: February 8, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-4676 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-70-M

Big Cypress National Preserve; Plan of Operations for the Purpose of Oil Drilling

Notice is hereby given pursuant to § 9.52(b) of Title 36 of the Code of Federal Regulations of the availability for comment and review of a Plan of Operations submitted by Exxon Corporation for the purpose of oil drilling in the Big Cypress National Preserve. Copies of the Plan of Operations are available for review during normal business hours at Everglades National Park headquarters, Route 27, 12 miles south of Homestead, Florida; at Big Cypress National Preserve, 850 Central Avenue, Room 304, Naples, Florida; and at the National Park Service, Southeast Regional Office, 75 Spring Street SW., Atlanta, Georgia. Comments received by March 10, 1980, will become part of the official record. An Environmental Assessment of the Plan of Operations is under development and it, along with the Environmental Review, will be made available for public examination at a later date. For further information, contact Ms. Pat Tolle, Management Assistant, Everglades National Park, (305) 247-6211.

Dated: February 7, 1980.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region.

[FR Doc. 80-4798 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with Pub. L. 92-464 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, March 7, 1980, at 1:30 pm at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matter:

Draft plan of the Land Acquisition Plan for Cape Cod National Seashore.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663, Telephone 617-349-3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: February 6, 1980.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 80-4800 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-70-M

Everglades National Park; Land Acquisition Plan: Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** (Vol. 44, No. 82) on April 26, 1979, the Superintendent of Everglades National Park announces two open houses for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open houses will be held as follows:

Wednesday, March 5, 1980, 10:00 a.m. to 4:00 p.m. and Thursday, March 6, 1980, 2:00 to 8:00 p.m.
Park Headquarters, Everglades National Park, 12 miles southwest of Homestead, Florida, on State Route 27, which becomes main park road.

Persons desiring further information about the open houses can write or call the Superintendent, Everglades National Park, P.O. Box 279, Homestead, Florida 33030, (305) 247-6211. In addition, copies of the draft plan are available from the Superintendent.

Following the open houses, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: January 31, 1980.

James L. Bainbridge,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 80-4799 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-70-M

Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the data of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Saga-Hill Corporation, authorizing it to continue to operate a gift shop and food facilities and services for the public at Sagamore Hill National Historic Site for a period of four (4) years from January 1, 1980 through December 31, 1983.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the North Atlantic Regional Office, National

Park Service, 15 State Street, Boston, Massachusetts 02109.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1979, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Saga-Hill Corporation as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Saga-Hill Corporation is substantially equal to others received. In the event a responsive proposal superior to that of Saga-Hill Corporation (as determined by the Secretary) is submitted, Saga-Hill will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Saga-Hill Corporation. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be post marked or hand delivered on or before March 17, 1980 to be considered and evaluated.

Interested parties should contact the Regional Director, North Atlantic Regional Office, National Park Service, 15 State Street, Boston, Massachusetts 02109, for information as to the requirements of the proposed contract.

Dated: October 19, 1979.

Gilbert W. Calhoun,

Acting Regional Director, North Atlantic Region.

[FR Doc. 80-4796 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-70-M

Cumberland Gap National Historical Park; Land Acquisition Plan: Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** (Vol. 44, No. 82) on April 26, 1979, the Superintendent of Cumberland Gap National Historical Park announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows: Friday, March 14, 1980, 1:30 to 4:30 p.m. Park Headquarters, ½ mi. south of Middlesboro, Kentucky, on U.S. 25E.

Persons desiring further information about the open house can write or call the Superintendent, Cumberland Gap National Historical Park, P.O. Box 840, Middlesboro, Kentucky 40965, (606) 248-2817. In addition, copies of the draft plan are available from the Superintendent.

Following the open house, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: February 1, 1980.

Joe Brown,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 80-4795 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

[516 DM 1-6]

National Environmental Policy Act Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised instructions for the Bureau of Mines and Office of Surface Mining.

SUMMARY: This notice proposes appendices to the Department's NEPA procedures for the Bureau of Mines and the Office of Surface Mining. The proposed Departmental procedures were published in the **Federal Register** on July 10, 1979 (44 FR 40436).

DATE: Comments due March 17, 1980.

ADDRESS: Larry E. Meierotto, Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-3891.

For Bureau of Mines contact Andy Corcoran, Telephone (202) 634-7239. For Office of Surface Mining contact Frank Anderson, Telephone (202) 343-5287.

SUPPLEMENTARY INFORMATION: These proposed appendices to the Departmental Manual (516 DM 6) provide more specific NEPA compliance guidance to the Bureau of Mines (Appendix 7) and the Office of Surface Mining (Appendix 10). In particulr they provide information about organizational responsibilities for NEPA compliance, advice to applicants,

actions, normally requiring the preparation of an environmental statement, and categorical exclusions. The appendices should be taken in conjunction with the proposed Departmental procedures (516 DM 1–6) which were published in the Federal Register on July 10, 1979 (44 FR 40436). In addition, these bureaus will prepare handbooks or other technical guidance on how to apply these procedures to their principal programs.

Previously published proposed appendices include:

Appendix 2 Fish and Wildlife Service (44 FR 65822)
Appendix 4 Heritage Conservation and Recreation Service (44 FR 49523)
Appendix 9 Water and Power Resources Service (formerly Bureau of Reclamation) (44 FR 47627)

Appendices for other bureaus will be published as notices during the next few weeks for 30-day public comment.

Comments on these proposed appendices (516 DM 6, Appendices 7 and 10) are invited. To be considered in the preparation of the final appendices, comments must be received by March 17, 1980.

Dated: February 8, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

Appendix 7 (516 DM–6)—Bureau of Mines

7.1 NEPA Responsibilities

A. *Assistant Director, Program Development and Evaluation* is operationally responsible to the Director for insuring, on a continuing basis, Bureau-wide compliance with the National Environmental Policy Act, Executive Order 11514, as amended, and the Council on Environmental Quality regulations as they pertain to Bureau of Mines activities.

B. *Deputy Director for Minerals Research* will insure that environmental concerns are identified early in the planning stages for all proposed research and development projects.

C. *Special Assistant—Environmental Assessment* will be responsible for:

(1) coordinating the Bureau's activities required by the National Environmental Policy Act of 1969 and related legislation;

(2) responding to inquiries from the public and all levels of government concerning the Bureau's NEPA-related activities;

(3) providing information, guidance, training, advice, and coordination on NEPA matters as they relate to the Bureau's research and development programs;

(4) reviewing Bureau-proposed legislation and programs for NEPA-related implications.

D. *Directors, Minerals Technology Programs* are responsible to the Deputy Director for Minerals Research for integrating the procedures mandated by NEPA and the CEQ regulations into all R&D programs.

E. *Director, Division of Research Center Operations* is responsible to the Deputy Director for Minerals Research for integrating the procedures mandated by NEPA and the CEQ regulations into all activities involving the research centers.

7.2 Guidance to Applicants

The Bureau of Mines has no applicable programs.

7.3 Major Actions Normally Requiring an EIS

Construction of a major new Bureau research center or test facility normally will require an EIS.

7.4 Categorical Exclusions

In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, many of which the Bureau also performs, the following Bureau of Mines actions are designated categorical exclusions when they meet the criteria outlined in 516 DM 2.3A:

A. Bureau data collection activities and field surveys. Included are reconnaissance-type investigations, research studies to develop new information, stream gaging, well logging, and aquifer response testing.

B. Research activities concerning the development or evaluation of either mining or metallurgical technologies.

C. Research activities that take place in a laboratory where methods for proper disposal of laboratory wastes to prevent environmental pollution have been implemented.

D. Development and demonstration of mining equipment.

E. Field demonstrations and pilot plants when operated in conjunction with existing facilities of a cooperator or contractor when such facilities provide for effluent and/or emission controls and waste disposal practices that are in compliance with all existing Federal, State, and local standards or regulations.

Appendix 10 (510 DM–6)—Office of Surface Mining

10.1 NEPA Responsibilities

A. *Director* is responsible for NEPA compliance for Office of Surface Mining activities.

B. *Assistant Directors* (1) are responsible to the Director for supervision and coordination of NEPA activities in their program areas of responsibility.

(2) are responsible, within their program areas, for OSM Headquarters review of EIS's for compliance with program area policy guidance.

(3) are responsible for assuring that environmental concerns are identified early in the planning stages and appropriate policy and program guidance is disseminated.

C. *Regional Directors* (1) are responsible to the Director for integrating the NEPA process into all Regional activities and for NEPA compliance activities in their Regions.

(2) will designate, and notify the Director, which staff position will be responsible to the Regional Director for the consistency, adequacy, and quality of all NEPA documents prepared by the Region's staff. The position will also be responsible to the Regional Director for providing information, guidance, training, advice, and coordination on NEPA matters, and for oversight of the Region's NEPA process.

D. *Chief, Branch of Environmental Analysis* is the position designated by the Director to be responsible for overall policy

guidance for NEPA compliance for the Office of Surface Mining.

10.2 Guidance to Applicants

OSM personnel are available to meet with all applicants for permits on Federal lands or under a Federal program for a State to provide guidance on the permitting process. Permit applications under approved State programs are excluded from NEPA compliance. In addition, OSM's regulations provide requirements for applicants submitting environmental information. The following parts of the regulations (30 CFR) describe the information requirements.

A. Parts 770 and 771 outline the content requirements of permit applications on Federal lands or under a Federal program for a State, including: the procedures for coal exploration operations required by 30 CFR 776; the permit application contents for surface coal mining activities required by 30 CFR 778, 779, and 780; the permit application contents for underground coal mining required by 30 CFR 782, 783, and 784; the requirements for special categories of surface coal mining required by 30 CFR 785; and the procedures for review, revision, and renewal of permits and for the transfer, sale, or assignment of rights granted under permits, as required by 30 CFR 788.

B. Part 776 identifies the minimum requirements for coal exploration activities outside the permit area. Part 776 is complemented by Part 815 of Subchapter K which provides environmental protection performance standards applicable to these operations.

C. Part 778 provides the minimum requirements for legal, financial, compliance, and general nontechnical information for surface mining activities applications. Information submitted in permit applications under Part 778 will be used primarily to enable the regulatory authority and interested members of the public to ascertain the particular nature of the entity which will mine the coal and those entities which have other financial interests and public record ownership interests in both the mining entity and the property which is to be mined.

D. Part 779 establishes the minimum standards for the Secretary's approval of permit application requirements under regulatory programs regarding information on existing environmental resources that may be impacted by the conduct and location of the proposed surface mining activities. With the information required under Part 779, the regulatory authority is to utilize information provided in mining and reclamation plans under Part 780, in order to determine what specific impacts the proposed surface mining activities will have on the environment.

E. Part 780 establishes the heart of the permit application: the mining operations and reclamation plan for surface mining activities. The regulatory authority will utilize this information, together with the description of the existing environmental resources obtained under Part 779 to predict whether the lands to be mined can be reclaimed as required by the Act.

F. Part 782 contains permit application requirements for underground mining activities. This corresponds to Part 778 for surface mining. As such, Part 782 sets forth the minimum requirements for approval of regulatory programs for general, legal, financial, and compliance information required to be contained in applications for permits.

G. Part 783 describes the minimum requirements for information on environmental resources required in the permit application for underground mining. Part 783 corresponds to Part 779 for surface mining activities, and establishes minimum standards under regulatory programs for the Secretary's approval of permit application requirements for information on the existing environmental resources that may be impacted by underground mining.

H. Part 784 contains a discussion of the minimum requirements for reclamation and operation plans related to underground mining permit applications. Part 784 corresponds to Part 780 for surface mining activities. It establishes minimum standards for Secretarial approval of permit application requirements under regulatory programs for underground mining activities, operations, and reclamation plans.

I. Part 785 contains requirements for permits for special categories of mining including anthracite, special bituminous, experimental practices, mountaintop removal, steep slope, variances from approximate original contour restoration requirements, prime farmlands, alluvial valley floors, augering operations, and in-situ activities. The provisions of Part 785 are interrelated to the performance standards applicable to the special categories covered in Subchapter K and must be reviewed together with the preamble and text for Parts 818 through 828 of Subchapter K.

J. Part 788 specifies the responsibilities of persons conducting surface coal mining and reclamation operations with respect to changes, modifications, renewals, and revisions of permits after they are originally granted, and of persons who attempt to succeed to rights granted under permits by transfer, sale, or assignment of rights.

10.3 Major Actions Normally Requiring an EIS

An environmental impact statement will normally be prepared for the following major OSM actions:

A. Approval of the Abandoned Mine Lands Reclamation Program (Surface Mining Control and Reclamation Act of 1977, Title IV).

B. Promulgation of the permanent regulatory program for surface coal mining and reclamation operations (Surface Mining Control and Reclamation Act of 1977, Title V).

C. Approval of mining permits for new surface mines of 640 or more acres on Federal lands or under a Federal program for a State.

10.4 Categorical Exclusions

A. Certain OSM actions are excluded from NEPA compliance by Sections 501(a) or 702(d) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These actions are:

(1) promulgation of interim regulations;

(2) approval of State programs;

(3) promulgation of Federal programs where a State fails to submit, implement, enforce, or maintain an acceptable State program;

(4) promulgation and implementation of the Federal lands program.

B. In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, many of which OSM also performs, the following OSM actions are designated categorical exclusions when they meet the criteria outlined in 516 DM 2.3A (SMCRA sections are in parentheses):

(1) monetary allotments to States for mining and mineral resources institutes (301).

(2) allocation of research funds to institutes (302).

(3) any research effort associated with an ongoing abandoned mine land reclamation project where the research is coincidental to the reclamation (401(c)(6)).

(4) collection of reclamation fees from operators (402(a)).

(5) right to enter land adversely affected by past coal mining (407(a)).

(6) acquisition of particular parcels of abandoned mine lands for reclamation (407(c)).

(7) filing liens against property adversely affected by past coal mining (408).

(8) emergency abandoned mine reclamation projects (410).

(9) interim regulatory grants (502(e)(4)).

(10) disapproval of a proposed State program (503(c)).

(11) review of permits issued under a previously approved State program (504(d)).

(12) five-year permit renewal on life-of-mine plans under the Federal lands program or a Federal program for a State with respect to areas within the boundaries of the existing permit, unless there are changes in the proposed method of operation which would produce significant effects on the quality of the human environment (506(d)).

(13) small operator assistance program (507(c)).

(14) issuance of public notices and holding public hearings on permit applications involving Federal lands or under a Federal program for a State (513).

(15) routine inspection and enforcement activities (517).

(16) conflict of interest regulations (517(g)).

(17) assessment of civil penalties (518).

(18) releases of performance bonds or deposits for mining on Federal lands or under a Federal program for a State (519).

(19) issuance of cessation orders for coal mining and reclamation operations (521(a) (2) and (3)).

(20) suspension or revocation of permits (521(a)(4)).

(21) Federal oversight and enforcement of ineffective State programs (521(b)).

(22) Cooperative agreements between a State and the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal land (523(c)).

(23) development of a program to assure no unreasonable denial of grants, permits, leases, or contracts for Federally owned coal (523(d)).

(24) annual grants programs to States for program development, administration, and enforcement (705(a)).

(25) assistance to States in the development, administration, and enforcement of State programs (705(b)).

(26) increasing the amount of annual grants to States (705(c)).

(27) submission of the Secretary's annual report to the Congress (706).

[FR Doc. 80-4729 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-10-M

New Mexico; Order Revising Boundaries of El Morro National Monument

Whereas the Act of June 14, 1950 (64 Stat. 211), authorized the Secretary of the Interior to procure certain described lands for the protection and preservation of El Morro National Monument, and further provided that lands so acquired shall become a part of said monument and subject to the laws and regulations applicable thereto upon the issuance of an appropriate order, or orders, by the Secretary of the Interior published in the **Federal Register**, setting forth the revised boundaries of said monument, and,

Whereas in Township 9 North, Range 14 West, New Mexico Principal Meridian, the United States of America has acquired valid title to the North half of the Northeast quarter in Section 6 thereof, said land being a part of the land authorized for procurement under the Act of June 14, 1950;

Now, therefore, it is ordered, that the following is a description of the revised boundaries of El Morro National Monument established by Proclamation No. 695, dated December 8, 1906 (34 Stat. 3264), and enlarged by Proclamation No. 1377, dated June 18, 1917 (40 Stat. 1673), and by orders of the Secretary of the Interior, dated January 25, 1952 (17 F.R. 935), and June 11, 1962 (F.R. Doc. 62–5886, filed June 15, 1962).

New Mexico Principal Meridian

Township 9 North, Range 14 West
Section 5, all;
Section 6, Lot 1, NE¼NW¼, SE¼NW¼, NE¼, N½SE¼, NE¼SW¼.

Containing 1,039.92 acres.

Dated: February 6, 1980.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80–4797 Filed 2–13–80; 8:45 am]

BILLING CODE 4310–70–M

[INT FEIS 80–8]

Proposed Snake River Birds of Prey National Conservation Area, Boise, Idaho; Availability of Final Environmental Impact Statement (FEIS)

In accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a FEIS on a proposed program to protect and manage habitat for golden eagles, prairie falcons, red-tailed hawks, and 12 other species of birds of prey (raptors), on certain lands in Idaho, under a multiple-use and sustained-yield management plan.

The FEIS addresses protection and management of raptors along an 81 mile stretch of the Snake River in southwestern Idaho, which provides nesting habitat for more than 1,000 birds of prey each year. This area constitutes the densest nesting population of raptors in the world, and is an area of both national and international significance. The proposed action includes: designation—by Congress—of 515,257 acres of public land in Ada, Canyon, Elmore, and Owyhee Counties, Idaho, as the Snake River Birds of Prey National Conservation Area; exploration and extraction of minerals governed by the 1872 Mining Law only under a leasing procedure, except for valid existing rights; removal of the lands involved from application under the Desert Land, Carey, and State of Idaho Admissions Acts; mineral leasing under the Mineral Leasing or Geothermal Steam Acts only as provided in a land-use plan developed under the authority of the Federal Land Policy and Management Act of 1976; and continuation of National Guard use of a portion of the area. Management of the area would be continued under the existing management plan which would be revised or updated as new data warrants.

Public reading copies of the FEIS are available at the following locations:

Office of Public Affairs, Bureau of Land Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

Boise District Office, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702.

Idaho State Office, Bureau of Land Management, Federal Building, Room 398, Boise, Idaho 83724.

Review copies are also available at the public and/or university libraries in Boise, Mountain Home, and Twin Falls, Idaho.

A limited number of copies are available from the Boise District Manager at the above address.

Dated: February 8, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary.

[FR Doc. 80–4754 Filed 2–13–80; 8:45 am]

BILLING CODE 4310–84–M

Office of Surface Mining

Reclamation and Enforcement; Public Disclosure of Comments Received from Federal Agencies on the Wyoming State Permanent Program Submitted Under Pub. L. 95–87.

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior

ACTION: Announcement of Public Disclosure of Comments on the Wyoming Program From The Environmental Protection Agency (EPA), The Department of Agriculture (USDA) and Other Federal Agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Brooks Tower, Room 5010, 1020 15th Street, Denver, Colorado 80202. Telephone (303) 837–5421.

Office of Surface Mining, Department of the Interior, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

Wyoming Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002.

Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 30 East Grinnell Street, Sheridan, Wyoming 82801.

Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 933 Main Street, Lander, Wyoming 82520.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Crane, Regional Director, Office of Surface Mining, Brooks Tower, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837–5921; or Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Wyoming permanent regulatory program submitted by Wyoming for his review on August 15, 1979. See 44 FR

49313 (August 22, 1979), 44 FR 61266 (October 24, 1979), 44 FR 71798 (December 11, 1979), 45 FR 77458 (December 31, 1979), and 45 FR 2912 (January 15, 1980). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Wyoming program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Wyoming program:

Department of Agriculture: Soil Conservation Service; Forest Service; Agriculture Stabilization and Conservation Service; Office of Environmental Policy; Science and Education Administration.
Advisory Council on Historic Preservation.
Department of Labor: Mine Safety and Health Administration.
U.S. Environmental Protection Agency.
Water Resources Council.
Department of Energy.
Department of the Interior: Bureau of Indian Affairs; Bureau of Land Management; Bureau of Mines; Heritage Conservation and Recreation Service; Bureau of Reclamation; Fish and Wildlife Service; National Park Service.
U.S. Geological Survey.
Council on Environmental Quality.
U.S. Army Corps of Engineers.
Missouri River Basin Commission.

Of those agencies invited to comment, OSM received comments from the following offices:

U.S. Environmental Protection Agency.
Mine Safety and Health Administration.
Fish and Wildlife Service.
Soil Conservation Service.
Bureau of Mines.
Forest Service.
Advisory Council on Historic Preservation.
Missouri River Basin Commission.
Science and Education Administration.
Bureau of Land Management.
U.S. Water Resources Council.
Department of Energy.
National Park Service.
U.S. Army Corps of Engineers.

These comments are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: February 11, 1980.

Carl C. Close,

Assistant Director, State and Federal Programs.

[FR Doc. 80-4677 Filed 2-13-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 166]

Assignment of Hearings

February 4, 1980.

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 includes cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-10542, The Greyhound Lines, Inc., Etal, now being assigned for hearing on April 28, 1980 (1 week) at New Rochelle, NY location of hearing room will be designated later.
MC 111231 (Sub-227F), Jones Truck Lines, Inc., now being assigned for hearing on February 27, 1980 (2 days) at Little Rock, AK, in Arkansas Transportation Commission, Justice Building, State Capitol Grounds.
MC 107678 (Sub-68F), Hill & Hill Truck Lines, Inc., canceled and transferred to Modified Procedure.
MC 55896 (Sub-105F), R-W Service System, Inc., now being assigned for continued hearing on April 8, 1980 (9 days), at Detroit, MI and continued to May 8, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC, and continued to June 9, 1980 (10 days), at Detroit, MI, and continued to June 30, 1980 (4 days), at St. Louis, MO, and continued to August 4, 1980 (5 days), at Denver, CO, and continued to September 16, 1980 (4 days), at Atlanta, GA in hearing rooms to be designated later.
MC 112908 (Sub-9F), Kingsway Transports Limited, now assigned for continued hearing on February 6, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
Ex Parte 365, In The Matter of James N. Clay, III, now being assigned for prehearing conference on March 18, 1980 at the offices of the Interstate Commerce Commission in Washington, DC.
MC 4963 (Sub-64F), Jones Motor Company, Inc., now being assigned for prehearing conference on March 18, 1980 at the offices of the Interstate Commerce Commission in Washington, DC.
MC 115703 (Sub-13F), Kreitz Motor Express, Inc., now being assigned for hearing on March 19, 1980 at the offices of the Interstate Commerce Commission in Washington, DC.
MC 143702 (Sub-5F), All Freight Systems, Inc., now beings assigned for continued hearing on March 13, 1980 (2 days), at Omaha, NE in a hearing room to be designated later.
MC 140829 (Sub-216F), Cargo, Inc., now being assigned for hearing on March 12, 1980 (1 day), at Omaha, NE in a hearing room to be designated later.
MC 143702 (Sub-5F), All Freight Systems, Inc., now being assigned for continued hearing on March 13, 1980 (2 days), at Omaha, NE in a hearing room to be designated later.
MC 140829 (Sub-254F), Cargo, Inc., now being assigned for hearing on March 17, 1980 (1 day), at Omaha, NE in a hearing room to be designated later.
MC 119741 (Sub-145F), Green Field Transport Company, Inc., now being assigned for hearing on March 18, 1980 (2 days), at Omaha, NE in a hearing room to be designated later.
MC 135078 (Sub-48F), American Transport, Inc., now being assigned for hearing on March 20, 1980 (2 days), at Omaha, NE in a hearing room to be designated later.
MC 108633 (Sub-16F), Barnes Freignt Line, Inc., now assigned for continued hearing on March 11, 1980 (4days), at Birmingham, AL in a hearing room to be designated later.
MC 136155 (Sub-7F), Gay Trucking Company, now being assigned for hearing on March 17, 1980 (2 days), at Atlanta, GA in a hearing room to be designated later.
MC 138609 (Sub-3F), Robert L. Arnold, d.b.a. Plantation Transport Company, now being assigned for hearing on March 19, 1980 (3 days), at Atlanta, GA in a hearing room to be designated later.
MC 52858 (Sub-114), Convoy Company, now assigned for hearing on February 6, 1980 (3 days), at Denver, CO, is Canceled.
MC 124606 (Sub-6F), Ford Truck Line, Inc., now assigned for hearing on March 4, 1980 will be held at the Federal Building, Room No. 369, 167 North 9th Street, Memphis, TN.
MC 142703 (Sub-13,14F), Intermodal Transportation Services, Inc., now assigned for hearing on March 12, 1980 at Columbus, OH will be held at the Ohio Public Utilities Hearing Room, Borden Building, 180 Broad Street, Columbus, OH.
MC 31389 (Sub-269F), McLean Trucking Company, now assigned for continued hearing on March 11, 1980 (4 days), at the Executive Plaza Inn, 1471 East Brooks Road, Memphis, TN.
MC 119777 (Sub-366F), Ligon specialized Hauler, Inc., now being assigned for hearing on March 17, 1980 (2 days), at Louisville, KY in a hearing room to be designated later.
MC 135812 (Sub-1F), Professional Driver Services, Inc., now assigned for hearing on March 4, 1980 (4 days) at Louisville, KY in Room 635, Post Office Building, 6th and Broadway.
MC 107403 (Sub-1186F), Matlack, Inc., now assigned for hearing on March 11, 1980 (1 day) at Louisville, KY in Room 635, Post Office Building, 6th and Broadway.
MC 138882 (Sub-238F), Wiley Sanders Truck Lines, Inc., now assigned for hearing on March 12, 1980 (3 days) at Louisville, KY in Room 635, Post Office Building, 6th and Broadway.
MC 116915 (Sub-78F), Eck Miller Transportation Corp., now assigned for hearing on March 10, 1980 (1 day) at Louisville, KY in Room 635, Post Office Building, 6th and Broadway.

MC 147144F, International Carriers, Inc., now assigned for hearing on February 26, 1980 at Washington, DC is postponed indefinitely.
MC 2202 (Sub-568F), Roadway Express, Inc., MC 29910 (Sub-200F), Arkansas-Best Freight System, Inc., MC 35320 (Sub-157F), T.I.M.E. DC, Inc., MC 41432 (Sub-155F), East Texas Motor Freight Lines, Inc., MC 42487 (Sub-882F), Consolidated Freightways Corporation, MC 59680 (Sub-220F), Strickland Transportation Co., Inc., MC 107727 (Sub-29F), Alamo Express, Inc., MC 110325 (Sub-88F), Transcon Lines, and MC 112713 (Sub-227F), Yellow Freight System, Inc., now assigned for continued hearing on February 11, 1980 at Laredo, TX, February 18, 1980 (2 days) at Brownsville, TX and also on February 20, 1980 (3 days) at McAllen, TX, location of hearing room will be by subsequent notice.
MC 145402 (Sub-2F), Lake Line Express, Inc., now being assigned for hearing on March 24, 1980 (1 week) at Appleton, WI, location of hearing will be by subsequent notice.
MC 140818 (Sub-1F), The Gray Line of Seattle, Inc., now assigned for hearing on February 26, 1980 (1 week) at Seattle, WA, in Room B-006, Old Federal Bldg., 909 1st Ave.
MC 138237 (Sub-9F), Metro Hauling, Inc., now assigned for hearing on March 3, 1980 (1 week) at Seattle, WA in Room 1844, New Federal Bldg., 919 1st Avenue, and also Room B-006, Old Federal Bldg., 919 1st Avenue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4693 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 167]

Assignment of Hearings

February 8, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 26396 (Sub-223F), Popekla Trucking Co., d.b.a. The Waggoners, is transferred to Modified Procedure.
MC 142941 (Sub-35F), Scarborough Truck Lines, Inc., now assigned for hearing on February 20, 1980 at Salt Lake City, UT is postponed indefinitely.
MC-C-10466, Public Service Commission of the State of Missouri v. Gale Webb doing business as Viking Line, now being assigned for hearing on April 15, 1980 (2 days) at Jefferson City, MO location of hearing room will be by subsequent notice.
MC 95466 (Sub-7F), Dattco, Inc., now being assigned for hearing on April 23, 1980 (3 days) at Hartford, CT, location of hearing room will be by subsequent notice.
MC-C-10425, Edith Peebles v. The Greyhound Corporation, et al., now being assigned for hearing on April 28, 1980 (1 week) at New Rochelle, NY, location of hearing room will be by subsequent notice.
MC 112801 (Sub-223F), Transport Service Company, now being assigned for hearing on April 22, 1980 (9 days), at Chicago, IL in a hearing room to be designated later.
MC 119619 (Sub-134F), Distributors Service Company, now being assigned for hearing on March 18, 1980 (9 days), at New York, NY in a hearing room to be designated later.
MC 59583 (Sub-170F), The Mason & Dixon Lines, now assigned for continued Prehearing Conference on April 1, 1980 at the offices of the Interstate Commerce Commission in Washington, DC.
MC 140829 (Sub-216F), Cargo, Inc., now assigned for hearing on March 12, 1980 will be held in Room 807, Federal Building, 106 South 15th Street, Omaha, NE.
MC 143702 (Sub-5F), All Freight Systems, Inc., now assigned for hearing on March 13, 1980 will be held in Room 807, Federal Building, 106 South 15th Street, Omaha, NE.
MC 140829 (Sub-254F), Cargo, Inc., now assigned for hearing on March 17, 1980 will be held in Room No. 807, Federal Building, 106 South 15th Street, Omaha, NE.
MC 119741 (Sub-145F), Green Field Transport Company, Inc., now assigned for hearing on March 18, 1980 will be held in Room 807, Federal Building, 106 South 15th Street, Omaha, NE.
MC 135078 (Sub-48F), American Transport, Inc., now assigned for hearing on March 20, 1980 will be held in Room 807, Federal Building, 106 South 15th Street, Omaha, NE.
MC 143059 (Sub-74F), Mercer Transportation Co., now being assigned for hearing on March 19, 1980 (3 days), at Louisville, KY in a hearing room to be designated later.
MC 144092 (Sub-1), Transportation Enterprises, Inc., now being assigned for hearing on March 18, 1980 (9 days), at Fort Worth, TX in a hearing room to be designated later.
MC 139495 (Sub-441F), National Carriers, Inc., transferred to Modified Procedure.
MC 139395 (Sub-3F), Bulk Transit Corporation, now being assigned for hearing on March 18, 1980 (1 day), at Columbus, OH in a hearing room to be designated later.
MC 99096 (Sub-2F), Fillmore Freight Lines, Inc., now being assigned for hearing on March 19, 1980 (3 days), at Columbus, OH in a hearing room to be designated later.
MC 146968F, J. L. Coats, now being assigned for hearing on March 24, 1980 (5 days), at Columbus, OH in a hearing room to be designated later.
MC-F-13050, J. B. Williams Express, Inc. Pur. (Por.) National Transportation Company DBA National Transport and MC 95336 (Sub-8 & 9), J. B. Williams Express, Inc., is transferred to Modified Procedure.
MC-F-13965, F. Freightways, Inc. Pur. (Por) J. B. Williams Express, Inc., and MC 120988 (Sub-3F), F. Freightways, Inc., is transferred to Modified Procedure.
MC 140615 (Sub-36F), Dairyland Transport, Inc., is transferred to Modified Procedure.
MC-C-10332, Atlas Transportation Company—Investigation and Revocation of Certificate, now being assigned for hearing on March 25, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 124692 (Sub-269F), Sammons Trucking, now being assigned for hearing on March 18, 1980 (4 days), at Little Rock, AR in a hearing room to be designated later.
MC 138108 (Sub-1F), Gulf States Trucking Service, Inc., now being assigned for hearing on March 24, 1980 (5 days), at Jackson, MS in a hearing room to be designated later.
MC 138627 (Sub-52F), Smithway Motor Xpress, Inc., now assigned for hearing on February 7, 1980 is canceled and transferred to Modified Procedure.
FD 28905 (Sub-1), CSX Corporation—Control—Chessie System, Inc., and Seaboard Coast Line Industries, Inc., now assigned for continued hearing on February 13, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
AB 193 (Sub-1F), Canton Railroad Company—Entire Line Abandonment—In Baltimore County, Maryland, now assigned for hearing on March 10, 1980 is canceled and Application Dismissed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4692 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

[Corrected 2nd Revised S.O. 1301; Amdt. 1 to Revised Exception No. 5]

Burlington Northern, Inc.; Exception to Service Order

Upon further consideration of Revised Exception No. 5 and good cause appearing therefor:

It is ordered: Revised Exception No. 5 to Corrected Second Revised Service Order No. 1301 is amended to *expire April 30, 1980.*

Issued at Washington, D.C., January 30, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Director, Bureau of Operations.

February 11, 1980.

[FR Doc. 80-4695 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

[Corrected 2nd Revised S.O. 1301; Amdt. 3 to Corrected Exception No. 4]

Burlington Northern Inc.; Exception to Service Order

Upon further consideration of Corrected Exception No. 4 and good cause appearing therefor:

It is ordered: Corrected Exception No. 4 to Corrected Second Revised Service

Order No. 1301 is amended to *expire April 30, 1980.*

Issued at Washington, D.C., January 30, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Director, Bureau of Operations.

February 11, 1980.

[FR Doc. 80-4694 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

[AB 18 (SDM)[1]]

Chessie System; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, 1121.23 that the Chessie System has filed with the Commission its amended color-coded system diagram map in docket No. AB 18 (SDM). The Commission on February 4, 1980, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 18 (SDM).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4700 Filed 2-13-80; 8:45 am]

BILLING CODE 70325-01-M

[Ex Parte No. 241; Rule 19; Thirty-Ninth Revised Exemption No. 129]

Atlanta & St. Andrews Bay Railway Co.; Mandatory Car Service Rules

To: All Railroads.

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC–RER 6410–D, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company, Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company, Reporting Marks: CWP
Columbus and Greenville Railway Company,[1] Reporting Marks: CAGY
Green Mountain Railroad Corporation, Reporting Marks: GMRC
Illinois Terminal Railroad Company, Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company, Reporting Marks: LNAC
Manufacturers Railway Company, Reporting Marks: MRS
Maryland Midland Railway Company, Reporting Marks: MMID
Missouri-Kansas-Texas Railroad Company, Reporting Marks: MKT
New Hope and Ivyland Railroad Company, Reporting Marks: NHIR
North Stratford Railroad Corporation, Reporting Marks: NSRC
St. Louis Southwestern Railway Company, Reporting Marks: SSW
Southern Pacific Transportation Company, Reporting Marks: SP
Southern Railway Company, Reporting Marks: SOU

Effective February 1, 1980, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 30, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-4696 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29250]

Chicago, Madison & Northern Railway Co.; Operation in Monroe and Vernon Counties, Wis.

Chicago, Madison & Northern Railway Company (CM&N), Madison, Dane County, WI, represented by John F. Jenswold, Attorney, 16 North Carroll Street, Madison, WI 53703, and Francis G. McKenna, Attorney, 1000 16th Street, N.W., Washington, DC 20036, hereby give notice that on the 4th day of February, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing the operation of a portion of the Chicago, Milwaukee, St. Paul & Pacific Railway Company between Sparta and Viroqua, WI, a distance of approximately 35 miles, in Monroe and Vernon Counties, WI. This section of track was subject to Commission proceeding AB–7 (Sub-No. 37) in which the Commission approved its abandonment, subject to final approval by the Federal District Court for the Northern District of Illinois.

Under the proposed plan of acquisition and operation, the right-of-way will be purchased by the State of Wisconsin and leased for a ten (10) year period with renewal options to the Viroqua-Westby-Vernon Transit Commission, which will own the tracks and track material. The line will be operated by CM&N. Approval of the instant application will permit continued rail service to the existing patrons and shippers and enhance the opportunities for the continued economic growth of the involved area. Additionally, continued operations will avoid the economic disruptions to businesses and communities which would result by the abandonment of the line.

In the opinion of the applicant, the granting of the authority sought will not significantly affect either the quality of the human environment or conservation of Energy Resources. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protest may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra,* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is

[1] AB 18 (SDM), The Chesapeake and Ohio Railway Company, AB 19 (SDM), The Baltimore and Ohio Railroad Company, and AB 69 (SDM), The Western Maryland Railway Company.

[1] Addition.

entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4699 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29245]

Chicago, Madison & Northern Railway Co.; Operation in Rock, Green, Lafayette, and Iowa Counties, Wis.

Chicago, Madison and Northern Railway Company (CM&N), represented by John F. Jenswold, Attorney, 16 North Carroll Street, Madison, WI 53703 and Francis McKenna, Attorney, 1000 16th Street, N.W., Washington, D.C. 20036, hereby give notice that on the 4th day of February, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing the operation of a portion of the Chicago, Milwaukee, St. Paul and Pacific Railway Company from milepost 11 at Janesville, WI westward a distance of approximately 81 miles to Mineral Point, WI, all in Rock, Green, LaFayette and Iowa Counties, WI. This section of track was the subject of Commission proceeding AB-7 (Sub-No. 49) in which the Commission approved its abandonment. Final approval of the abandonment was entered by order on January 21, 1980, by the Federal District Court for the Northern District of Illinois.

Under the proposed plan of acquisition and operation, the right-of-way will be purchased by the State of Wisconsin and leased for a ten (10) year period with renewal options to the Pecatonica Transit Commission which will own the tracks and track material. The line will be operated by CM&N.

The line now serves forty-seven (47) shippers and approximately 1472 cars moved over the line in the last year. Discontinuance of the line would directly affect the employment of 82 persons and indirectly affect a further 127 persons. The nature of the commodities hauled is such that alternatives to rail transportation are not available.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—Nat'l Environmental Policy Act, 1969, supra* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4698 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29247]

Forest Transit Commission and Nicolet Badger Northern Railroad; Operation in Florence and Forest Counties, Wis.

Forest Transit Commission (FTC), Crandon, WI, and Nicolet Badger Northern Railroad (NBN), represented by Marshall W. Keith, Chairman, Forest Transit Commission, 800 S. Lake Avenue, Crandon, WI 54520, hereby give notice that on the 6th day of February, 1980, they filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing the operation of a line of railroad formerly owned by the Chicago and Northwestern Transportation Company (C&NW) between Wabeno and Tipler, WI, in Florence and Forest Counties, passing through the towns of Laona, Newald, and Long Lake, a 37.79 mile portion of the C&NW 89.4 mile abandonment between Gillett, Oconto County, WI, and Scott Lake, Iron County, MI, which was decided on July 13, 1979, in docket No. AB-1 (Sub-No. 40).

The Federal Government and the Wisconsin legislature found that rail service continuation has widespread public interest and support, and is significant towards the preservation of a sound economic base and in the maintenance of a balanced transportation system, the State of Wisconsin Department of Transportation on behalf of FTC, acquired by Award of Damages dated July 23, 1979, the right-of-way being abandoned by the C&NW from Wabeno to Tipler, WI.

The NBN has the backing of the local people, the shippers, and the legislators. The local people and the counties have donated funds, and the shippers have signed agreements to ship all possible loads via the NBN.

In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra,* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4697 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

Released Rates Application

AGENCY: Interstate Commerce Commission.

ACTION: Notice, Released Rates, Application No. MC-1489.

SUMMARY: The National Motor Freight Traffic Association, Inc., Agent, on behalf of carriers named as participants in its National Motor Freight Classification, ICC NMF-100-F seeks to further amend Released Rates Order No. MC-455 for the purpose of expanding this authority to provide for the application of classes and/or exception ratings in tariffs which publish exceptions to such classification, and specific and/or general commodity

rates, including commodity column rates on jewelry, costume or novelty made of materials other than solid or filled precious metals, not mounted nor set with precious stones, when released as to value by shipper, taking precedence over said classification.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. William W. Pugh, Counsel, National Motor Freight Traffic Association, Inc., Agent, 1616 "P" St., N.W., Washington, D.C. 20036, Tel. (202) 797–5310.

FOR FURTHER INFORMATION CONTACT: Mr. Howard J. Rooney, Unit Supervisor, Informal Rate Cases Branch, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Tel. (202) 275–7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730 and 11707 of the Interstate Commerce Act for and on behalf of the carriers named as participants in the National Motor Freight Classification ICC NMF 100–F.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4701 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80–2629, appearing at page 6484 in the issue for Monday, January 28, 1980, on page 6489, in the middle column, between paragraphs two and three, the following should be inserted: **Notice No. 242.**

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79–37855, appearing at page 71496 in the issue for Tuesday, December 11, 1979, on page 71513, third column in the second paragraph, line 17, the abbreviation "TN" should read "TX".

BILLING CODE 1505-01-M

Permanent Authority Decisions 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 Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, 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. *Broadening amendments will not be accepted after February 14, 1980.*

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 its proposed contract carrier service will be consistent with the public 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 regulation. 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 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 March 17, 1980 (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 following decision-notices on or before March 17, 1980 or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce over irregular routes, except as otherwise noted.

Volume No. 281

Decided: January 21, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 200 (Sub-359F), filed June 20, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *plastic materials* and *chemical compounds,* from points in WV, to points in CO, IA, IL, IN, MO, NE, OH, OK and PA. (Hearing site: Kansas City, MO.)

MC 200 (Sub-367F), filed July 12, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *screws,* serving Iowa City, IA as an intermediate point on carrier's authorized regular-route authority on US Hwy. 6 between Chicago, IL, and Denver, CO. (Hearing site: Kansas City, MO.)

MC 200 (Sub-368F), filed July 12, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *wire* and *cable,* serving the McAllen—American Corporation, McAllen, TX, as an off-route point in connection with carrier's authorized regular-route authority. (Hearing site: Kansas City, MO.)

MC 200 (Sub-369F), filed July 12, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration from the facilities of Kraft, Inc. at (a) Dunkirk, NY, and (b) Erie, PA, to Champaign and Urbana, IL., restricted to the transportation of traffic originating at the named origins, and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 200 (Sub-370F), filed July 12, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *containers and container closures,* from Denver and Golden, CO, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Kansas City, MO.)

MC 531 (Sub-415F), filed July 11, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road (P.O. Box 14048), Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *liquid chemicals,* in bulk, in tank vehicles, from points in NJ and NY, to points in CA, OK, and WA. (Hearing site: Washington, DC.)

MC 730 (Sub-456F), filed July 11, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 25 No. Via Monte, Walnut Creek, CA 94595. Representative: E. E. Riddick (same address as applicant). Transporting *iron and steel articles,* from the facilities of Roanoke Electric Steel Corporation at, or near, Roanoke, VA to points in IL, IN, OH, and TN. (Hearing site: Charlotte, NC, or San Francisco, CA.)

MC 2860 (Sub-180F), filed July 12, 1979. Applicant: NATIONAL FREIGHT, INC., 71 W. Park Ave., Vineland, NJ 08360. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *such commodities as are dealt in or used by manufacturers and distributors of containers* (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic orginating at or destined to the facilities of the Continental Can Company, U.S.A., the Continental Group, Inc. (Hearing site: Washington, D.C. or New York, NY.)

MC 2900 (Sub-387F), filed July 12, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Rd., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (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 Classes A and B explosives, commodities in bulk, those of unusual value and those requiring special equipment and household goods as defined by the Commission) serving the facilities of Stone & Webster Engineering Corp. and U.S. Department of Energy's Gas Centrifuge Enrichment plant at Piketon, Sealtownship, OH, as an off-route point in connection with carrier's authorized regular-route operations. (Hearing site: Boston, MA or Jacksonville, FL.)

MC 3971 (Sub-8F), filed July 6, 1979. Applicant: GARFIELD HEIGHTS COACH LINE, INC., d.b.a. CLEVELAND SOUTHEASTERN TRAILS, 43 Harrison St., Bedford, OH 44146. Representative: Langdon D. Bell, 21 East State St., Columbus, OH 43215. Transporting *passengers and their baggage* in charter operations beginning and ending at points in OH, and extending to points in the United States (including AK but excluding HI). (Hearing site: Columbus or Cleveland, OH.)

MC 5470 (Sub-198F), filed July 13, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th St., NW., Washington, DC 20006. Transporting *such commodities as are transported in dump vehicles,* in dump vehicles, between the facilities of the Hickman-Fulton County Riverport Authority at Hickman, KY, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and TX. (Hearing site: Louisville, KY, or Washington, DC.)

MC 6031 (Sub-55F), filed July 18, 1979. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, WI 53204. Representative: William C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fiberglass insulation* and *materials and supplies* used in the installation of insulation from the facilities of Central Glass Insulations, Inc., at Milwaukee, WI, to (1) points in IL on and north of IL Hwy 17, (2) points in IN within the Chicago, IL commercial zone, (3) points in the Lower Peninsula of MI on and west of a line commencing at the IN–MI State line and extending along U.S Hwy 131 to junction MI Hwy. 55 and on and south of a line extending along MI Hwy 55 from junction with U.S. Hwy 131 to Lake Michigan, (4) points in the Upper Peninsula of MI, and (5) (a) points in MN bounded on the north by MN Hwy 95, on the west by U.S. Hwy 169 to junction U.S. Hwy I–35 and U.S. Hwy I–35 to the IA–MN State line, (b) Minneapolis, MN, under continuing Contract(s) with Central Glass Insulations, Inc. of Milwaukee, WI. (Hearing site: Milwaukee, WI.)

Note.—Dual Operations may be involved.

MC 22311 (Sub-19F), filed July 16, 1979. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Marvin Mickow, P.O. Box 765, Hammond, IN 46325.

Transporting (1) *iron and steel articles* and (2) *equipment materials and supplies,* used in the manufacture and distribution of iron and steel articles (except commodities in bulk) between the facilities of the Wyckoff Steel Division, Ampco Pittsburgh Corporation at Ambridge, PA on the one hand, and, on the other, points in OH, MI, KY, IN, IL, WI, MO, IA, TN and MN; restricted to the transportation of traffic originating at or destined to the named points. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 28060 (Sub-55F), filed July 6, 1979. Applicant: WILLERS, INC., d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Ave., Sioux Falls, SD 57101. Representative: Bruce E. Mitchell, 3390 Peachtree Rd. NE., Atlanta, GA 30326. Transporting *bakery goods* from the facilities of Sunshine Biscuits, Inc. at or near Kansas City, KS, to points in IA, MN, ND, NE, and SD. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 28060 (Sub-56F), filed July 12, 1979. Applicant: WILLERS, INC. d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Ave., Sioux Falls, SD 57101. Representative: Bruce E. Mitchell, 3390 Peachtree Rd. NE., Atlanta, GA. Transporting *building materials* (except commodities in bulk) from Chicago, IL, to the facilities of Holmes & Hudson Company in IA, and SD. (Hearing site: Sioux Falls, SD.)

MC 29910 (Sub-220F), filed July 13, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Transporting (1) *cement asbestos pipe* and *equipment and materials* used in the installation of cement asbestos pipe, (except in bulk, in tank vehicles), (1) from the facilities of Cement Asbestos Products Company, a Subsidiary of ASARCO, INC., at or near Van Buren, AR, to points in the United States (except IL, IN, OH, WI, AK, and HI, and (2) from Ragland, AL, to points in the United States (except AK and HI). Note: Applicant intends to tack this authority with its existing authority. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 29910 (Sub-221F), filed July 13, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Transporting (1) *non-ferrous metals,* from the facilities of ASARCO, Incorporated and Federated Metals Corporation, a subsidiary of ASARCO, Inc., at or near (a) Amarillo, Corpus Christi, and Houston, TX, (b) Omaha, NE, (c) Glover, MO, (d) Sand Springs, OK, (e) Whiting, IN, (f) Newark and Trenton, NJ, (g) San Francisco, CA, (h) Hillsboro, IL, and (i) Columbus, OH, to points in the United States, (except AK and HI), and (2) materials and supplies used in the manufacture and distribution of non-ferrous metals, in the reverse direction. (Hearing site: St. Louis, MO, or Washington, DC.)

Note.—Applicant intends to tack this authority with its existing authority.

MC 33641 (Sub-144F), filed June 18, 1979. Applicant: IML FREIGHT, INC., 10 Exchange Place, P.O. Box 30277, Salt Lake City, UT 84125. Representative: Martin J. Rosen, 256 Montgomery St., San Francisco, CA 94104. 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 & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between Denver, CO and Houston, TX: from Denver, Co Over U.S. Hwy 287 to Ft. Worth, TX, then over Interstate Hwy 20 to Dallas, TX, then over Interstate Hwy 45 to Houston, TX, and return over the same route, serving the intermediate points of Ft. Worth and Dallas, TX. (Hearing site: Denver, CO, or Salt Lake City, UT.)

MC 38320 (Sub-21F), filed July 11, 1979. Applicant: CENTRAL MOTOR EXPRESS, INC., P.O. Drawer "C", Campbellsville, KY 42718. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *household appliances* and *equipment, materials, and supplies* used in the manufacture and distribution of household applicances, (except commodities in bulk) between the facilities of the General Electric Company (1) at Louisville and Appliance Park, KY, on the one hand, and, on the other, points in TN, MS, AL, GA, IL, WI, NC, SC, VA, and LA, and (2) at Columbia, on the one hand, and, on the other, points in IL, IN, and OH. (Hearing site: Louisville, KY.)

MC 42261 (Sub-148F), filed June 22, 1979. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Applicant's representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. Transporting (1) *containers,* container accessories, and *container closures,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from Jacksonville, FL, and Edison, NJ, to Albany, GA, and Eden and Greensboro, NC. (Hearing site: Washington, DC.)

MC 42710 (Sub-15F), filed June 21, 1979. Applicant: BEN'S TRANSFER & STORAGE CO., INC., East Hwy 30, P.O. Box 190, Baker, OR 97814. Representative: Jerry R. Woods, Suite 1440—200 Market Bldg., 200 S. W. Market St., Portland, OR 97201. Transporting (1) *commodities* which because of size and weight require the use of special equipment (except machinery), (2) *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) in mixed loads with the commodities described in (1) above, (3) *machinery,* (4) *motor vehicles* (except trailers and new passenger automobiles in driveaway service), and (5) *construction and contractors equipment, materials, and supplies,* (a) between points in Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla, and Whitman Counties, WA, and those in OR in and east of Grant, Harney, and Morrow Counties, and those in ID in and south of Idaho, Lemhi, Clark, and Fremont Counties, and (b) between points named in (1) above, on the one hand, and, on the other points in ID, MT, NV, OR, UT, WA, and WY. (Hearing site: Boise, ID.)

MC 52460 (Sub-251F), filed July 11, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *coffee and coffee products* (except commodities in bulk), from the facilities of The Procter & Gamble Distributing Company at or near Sherman, TX to AL, AR, CO, KS, LA, MO, MS, and OK. (Hearing site: Dallas, TX.)

MC 52460 (Sub-252F), filed July 11, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *paper and paper products and toner,* from the facilities of Ansley Paper Company, Inc. at or near Lawton, OK to AL, AR, CO, FL, GA, KS, LA, NC, TN, and TX. (Hearing site: Oklahoma City, OK.)

MC 52861 (Sub-71F), filed July 11, 1979. Applicant: WILLS TRUCKING, INC., 3185 Columbia Road, Richfield, OH 44286. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting *coke and coke breeze,* in

bulk, in dump vehicles, from Erie, PA and Toledo, OH to points in ME, NH, VT, MA, RI, NY, NJ, DE, MD, VA, WV, PA, OH, KY, IN, MI, IL, WI, MN, IA, MO, CT, and DC. (Hearing site: Columbus, OH.)

MC 52861 (Sub-73F), filed July 16, 1979. Applicant: WILLS TRUCKING, INC., 3185 Columbia Road, Richfield, OH 44286. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting (1) *commodities in bulk* and (2) *pig iron,* in dump vehicles, between points in IN and those in IL on the north of Interstate Hwy 74, on the one hand, and, on the other, points in OH, PA, the Lower Peninsula of MI, IL, IN, those in NY on and west of Interstate Hwy 81, those in WV on and north of U.S. Hwy 60, and those in KY on, north and west of a line beginning at junction of the WV–KY State line and U.S. Hwy 64, then west along U.S. Hwy 64 to Lexington, KY then southwest along U.S. Hwy 62 to junction U.S. Hwy 641, then south along U.S. Hwy 641 to the KY–TN State line. (Hearing site: Columbus, Ohio.)

MC 56270 (Sub-32F), filed July 16, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., a corporation, 1401 55 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). Transporting (1) *ice cubers and ice cube dispensers* and (2) *equipment, materials and supplies used in the manufacture and distribution of ice cubers and ice cube dispensers,* (except commodities in bulk), between Manitowoc, WI, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to Manitowoc Equipment Works, a Division of The Manitowoc Company, Inc. (Hearing site: Milwaukee, WI, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 58851 (Sub-2F), filed 7–26–79. Applicant: RUDOLF EXPRESS CO., a corporation, 1650 Armour Road, Sourbonnais, IL 60914. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities,* (except commodities in bulk, classes A and B explosives, household goods as defined by the Commission and commoditis requiring special equipment), (a) between points in Vermilion and Champaign Counties, IL, on the one hand, and, on the other, points in Lake County, IN, and those in IA in the Davenport, IA Commercial Zone, (b) between points in Vermilion and Champaign Counties, IL, on the one hand, and, on the other, points in IL, for interchange of traffic moving to or from points beyond the State of IL, (c) between points in Cook, DuPage, Kane, Will, Kendall, Grundy, Kankakee, Livingston, Iroquois and Ford Counties, IL, those points in DeKalb & LaSalle Counties on and east of U.S. 23 on the one hand, and, on the other, points in Lake County, IN, and (d) between points in Lake County, IN, on the one hand, and on the other, points in the Davenport IA Commercial Zone. (Hearing site: Chicago, IL.)

MC 60580 (Sub-40F), filed July 17, 1979. Applicant: MAISLIN TRANSPORT OF DELAWARE, INC., 7401 Newman Boulevard, LaSalle, Quebec Canada. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. 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 points in Delaware as off-route points in connection with carrier's regular route operations. (Hearing site: New York, NY or Washington, DC.)

MC 61231 (Sub-156F), filed July 6, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *paper, paper products, and cellulose products,* between the facilities of The Procter & Gamble Paper Products Company, at or near (a) Neely's Landing, MO and (b) Cheboygan, MI, on the one hand, and, on the other, points in IA, KS, MN, NE, ND, OK, SD, TX and WI. (Hearing site: Cincinnati, OH, or St. Louis, MO.)

MC 68100 (Sub-30F), filed July 11, 1979. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Representative: William B. Barker, 641 Harrison St., Topeka, KS 66603. Transporting *plastic pipe, vinyl plastic siding, and extruded plastic products, fittings and accessories,* from the facilities of Vinylplex, Inc., at or near Pasadena, TX, to points in AR, IA, KS, LA, MS, MO, NE, MD, OK and SD. (Hearing site: Oklahoma City, OK.)

MC 70151 (Sub-56F), filed July 2, 1979. Applicant: UNITED TRUCKING SERVICE, INC., 8505 West Warren Ave., Dearborn, MI 48126. Representative: LaVergne L. Adsit (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) (a) between Lansing and Muskegon, MI, over Interstate Hwy 96, serving all intermediate points, and the off-route point of Lyons, MI, (b) between junction U.S. Hwy 27 and Interstate Hwy 94 and junction Interstate Hwy 94 and U.S. Hwy 20, over Interstate Hwy 94, serving all intermediate points, (c) between Muskegon, MI and junction U.S. Hwy 31, serving all intermediate points, and (d) between Grand Rapids, MI and junction IN Hwy 13 and U.S. Hwy 20, from Grand Rapids over U.S. Hwy 131 to junction of IN Hwy 13, then over IN Hwy 13 to junction U.S. Hwy 20 and return over the same route, serving all intermediate points, (e) between junction U.S. Hwy 20 and Interstate Hwy 65 and Indianapolis, IN, over Interstate Hwy 65, serving all intermediate points, (f) between junction U.S. Hwy 27 and U.S. Hwy 20 and Chicago, IL, over U.S. Hwy 20, serving all intermediate points, and (g) between South Bend, IN and junction U.S. Hyws 31 and 24, serving all intermediate points. (Hearing site: Detroit, MI.)

MC 74321 (Sub-149F), filed July 12, 1979. Applicant: B. F. WALKER, INC., P.O. Box 17–B, Denver, CO 80217. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Transporting (1) *metal buildings,* complete, knockdown or in sections, and parts and accessories for metal buildings; (2) *off-highway vehicles,* and parts and accessories for off-highway vehicles; (3) *power plant components and accessories;* (4) *fabricated steel structures* (except those in (1) above), and (5) *materials, equipment, and supplies* used in the manufacture, distribution, installation or maintenance of commodities described in (1), (2), (3) and (4) above (except commodities in bulk), between the facilities of Braden Steel Corporation, at or near Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI) restricted to the transportation of traffic originating at or destined to the facilities of Braden Steel Corporation at or near Tulsa, OK. (Hearing site: Tulsa, OK.)

MC 95540 (Sub-1120F), filed July 16, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Rd., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). Transporting *printed matter* from Des Moines, IA to points in AL, AR, AZ, CT, CA, DE, FL, GA, KY, LA, MA, MD, MS, NY, NJ, NM, NV, NC, OK, PA, RI, SC, TN, TX, VA, and WV. (Hearing site: Des Moines, IA, or Washington, DC.)

MC 98291 (Sub-4F), filed June 19, 1979. Applicant: KUNKLE TRANSFER & STORAGE CO., a corporation, 420 South Third Avenue, Phoenix, AZ 85003. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC. 20001. Transporting *electronic components, electronic component parts, and materials, equipment and supplies* used in the manufacture, distribution and sale of electronic components, (except in bulk), between the facilities of Motorola, Inc., at or near Phoenix and Mesa, AZ, on the one hand, and, on the other, Los Angeles International Airport of Los Angeles, CA. (Hearing site: Phoenix, AZ.)

MC 102401 (Sub-24F), filed July 17, 1979. Applicant: TAYLOR HEAVY HAULING, INC., 20601 W. Ireland Rd., South Bend, IN 46614. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *iron and steel articles,* from the facilities of Armco, Inc., at South Bend, IN, to points in MN, IA, MO, KY, and WV. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 106521 (Sub-3F), filed June 20, 1979. Applicant: HOLMES CARTAGE CO., a corporation, Box 638, Kilbuck, OH 44637. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Transporting *such commodities as are dealt in by manufacturers and distributors of wood* and *wood products,* between points in Holmes County, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

MC 108341 (Sub-164F), filed July 10, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Mr. Jack F. Counts, P.O. Box 26125, Charlotte, NC 28213. Transporting (1) *machinery, presses and vacuum equipment, (2) parts for commodities in (1) above, and (3) materials, equipment, and supplies* used in the manufacture, installation and distribution of commodities in (1) and (2) above (except commodities in bulk), between the facilities of Pennwalt Corporation, Stokes Division, at or near Philadelphia, PA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 108341 (Sub-165F), filed July 13, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts, P.O. Box 26125, Charlotte, NC 28213. Transporting *such commodities used* in the manufacture, and distribution of metal buildings and metal building parts (except commodities in bulk), from points in IL, IN and OH to the facilities of Butler Manufacturing Company at or near (a) Annville, PA, (b) Birmingham, AL and (c) Laurinburg, NC. (Hearing site: Chicago, IL or Washington, DC.)

MC 109821 (Sub-61F), filed July 16, 1979. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main St., Wellsboro, PA 16901. Representative: Dewey T. Whitford (same address as applicant). *Transporting iron and steel pipe* (1) from Lorain and Youngstown, OH to Indiana, PA, and (2) from Benwood, WV to Sheffield, PA. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 109821 (Sub-62F), filed July 17, 1979. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main Street, Wellsboro, PA 16901. Representative: Dewey T. Whitford, 40 Main Street, Wellsboro, PA 16901. Transporting *salt, in packages,* (1) from Cleveland and Cincinnati, OH, to points in NY and PA, and (2) from Watkins Glen, NY to points in PA. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 109891 (Sub-43F), filed July 16, 1979. Applicant: INFINGER TRANSPORTATION COMPANY, INC., 2811 Carner Ave., P.O. Box 7398, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., P.O. Drawer C. Berryville, VA 22611. Transporting *petroleum and petroleum products,* in bulk, in tank vehicles, from Wilmington, NC, to points in AL, TN, and VA. (Hearing site: Washinton, DC. or Columbia, SC.)

MC 110420 (Sub-832F), filed July 16, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004. Transporting *liquid chemicals,* in bulk, in tank vehicles, from Bristol, Croydon, and Philadelphia, PA to points in CT, DE, ME, MA, MD, NH, NJ, NY, RI, VT, and VA. (Hearing site: Washington, DC.)

MC 110420 (Sub-833F), filed July 16, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *chocolate and chocolate products,* in bulk, in tank vehicles, from Overland Park, KS to points in the United States (except AK and HI). (Hearing site: Chicago, IL or Washington, DC.)

MC 110420 (Sub-835F), filed July 16, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania B, 425 13th St. NW., Washington, DC 20004. Transporting *liquid chemicals,* in bulk, in tank vehicles, from Louisville, KY to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 111231 (Sub-279F), filed July 17, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *concrete roofing tile,* from Shawnee, OK, to points in MN and OH. (Hearing site: Oklahoma City, Dallas or Washington.)

MC 111310 (Sub-49F), filed July 11, 1979. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting *water,* from Milwaukee, WI, to points in MN. (Hearing site: Milwaukee or Madison, WI.)

MC 111310 (Sub-51F), filed July 11, 1979. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting (1) *malt beverages* and *malt beverage dispensing equipment,* from Evansville, IN and Frankenmuth, MI, to points in WI and MN, and (2) *malt beverage containers* in the reverse direction. (Hearing site: Madison or LaCrosse, WI.)

MC 111401 (Sub-580F), filed July 12, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier,* by motor vehicle, in foreign commerce only, transporting (1) *chemicals,* in bulk, in tank vehicles, from Charlotte, NC, to Brownsville, TX, and (2) *liquid insecticides,* in bulk, in tank vehicles, from Bryan, TX, to Brownsville, TX. (Hearing site: Houston or Dallas, TX.)

MC 113651 (Sub-308F), filed July 11, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *frozen foodstuffs,* from Milton, PA, to points in MI, MN, WI, IA, MO, KS, and NE. (Hearing site: New York, NY, or Washington, DC.)

MC 113651 (Sub-309F), filed July 16, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, IN 47305. Representative:

Glen L. Gissing (same address as applicant). Transporting *meats, 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 commodities in bulk) from Oklahoma City, OK, to Elizabeth, NJ. (Hearing site: Oklahoma City, OK, or Kansas City, KS.)

MC 114121 (Sub-4F), filed June 19, 1979. Applicant: SUPERIOR CARTAGE OF WASHINGTON, INC., 150 South Horton, Seattle, WA 98134. Representative: David M. Westurn, P.O. Box 60100—Terminal Annex, Los Angeles, CA 90060. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment) moving on bills of lading of freight forwarders as defined in 49 U.S.C. 10102(8) between points in Grays Habor, Lewis, Thurston, Pierce, King, Franklin, Benton, Walla Walla and Spokane Counties, WA, and Kootenai and Shoshone Counties, ID. (Hearing site: Seattle WA, or Los Angeles, CA.)

MC 115331 (Sub-509F), filed June 21, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Road, St. Louis, MO 63122. 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 Kalamazoom MI, on the one hand, and, on the other, points in IL, IN, IA, KY, MN, MO, NE, OH, PA, WV, WI, AR, KS, TN, OK, AL, MS, LA, and NY, restricted to the transportation of traffic originating at or destined to the facilities of Brown Co. (Hearing site: Washington, DC, or Detroit, MI.)

MC 115331 (Sub-510F), filed June 22, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Road, St. Louis, MO 63122. Transporting *commodities* in bulk (1) between those points in the United States in and east of ND, SD, NE, KS, OK and TX and (2) between points in the States named in (1) above, on the one hand and, on the other, those points in the United States west of ND, SD, NE, KS, OK and TX (except AK and HI), restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Owens-Illinois, Inc. (Hearing site: Washington, DC.)

MC 115331 (Sub-511F), filed June 22, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Road, St. Louis, MO 63122. (1) *Such commodities as are dealt in or used by drug, grocery and food businesses* (except frozen commodities and commodities in bulk), from the facilities of Colgate-Palmolive Co., at or near Kansas City, KS, to points in MN, WI, IA, IL, MO, MI, OH, and PA, and (2) *materials and supplies used in the manufacture and distribution of the commodities named in (1) above* (except frozen commodities and commodities in bulk), in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at and or destined to the facilities of Colgate-Palmolive Co., at or near Kansas City, KS. (Hearing site: St. Louis or Kansas City, MO.)

MC 115651 (Sub-61F), filed July 6, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, P.O. Box 39, Rockford, IL 61105. Representative: E. Stephen Heisley, 805 McLachen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *liquified petroleum gas,* in bulk, from East Chicago, IN, to points in IA, IL, MI, MN, MO, OH, TN, and WI. (Hearing site: Chicago, IL)

Note.—Certificate to be issued in this proceeding shall be limited to 5 years from the date of service.

MC 115931 (Sub-98F), filed July 16, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting *such commodities as are manufactured and distributed by manufacturers of (1) buildings, (2) building sections and panels, and (3) iron and steel articles, and (4) equipment, parts, materials and supplies for the commodities in (1), (2) and (3)* (except commodities in bulk), from the facilities of Inryco, Inc., at or near Milwaukee, WI, to points in AZ, CA, CO, ID, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY. (Hearing site: Milwaukee, WI.)

MC 116300 (Sub-54F), filed July 12, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *dry animal feed and dry animal feed ingredients,* between points in LA and MS. (Hearing site: Jackson, MS.)

MC 117940 (Sub-350F), filed July 16, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *building materials and supplies* (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Sonneborn Building Products, Division of Contech, Inc. (Hearing site: Minneapolis or St. Paul, MN.)

MC 117940 (Sub-351F), filed July 17, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *paper and paper products,* and *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), between Marinette, Green Bay, Oconto Falls, and Fond du Lac WI, on the one hand, and, on the other, points in AL, AR, CA, GA, IL, IN, IA, KS, MI, MN, MO, NE, NY, ND, OH, OK, PA, SD, TX, and WA. (Hearing site: Philadelphia, PA.)

MC 119560 (Sub-22F), filed July 13, 1979. Applicant: SOUTHERN BULK HAULERS, INC., Post Office Box 278, Harleyville, SC 29448. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. Transporting (1) *aluminum articles, and* (2) *materials, equipment, and supplies* used in the manufacture of aluminum articles, between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 119741 (Sub-219F), filed July 11, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *frozen meat,* in packages, from the facilities of Standard Meat Company, at or near Lincoln, NE, to points in AR, IA, KS, and MO. (Hearing site: Lincoln, NE.)

MC 119990 (Sub-9F), filed June 22, 1979. Applicant: MERCHANTS DELIVERY CO., a corporation, 1212 E. 19th, Kansas City, MO 64108. Representative: Leonard Rose, 601 W. 47th, Kansas City, MO 64112. Transporting *general commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in KS, MO, OK and NE

in that area bounded by a line beginning at Beatrice, NE; then southerly along U.S. Hwy. 77 to the KS–NE State line, then along the KS–NE State line to junction U.S. Hwy. 81, then along U.S. Hwy. 81 to junction KS Hwy. 61, then along KS Hwy. 61 to junction KS Hwy. 96, then along KS Hwy. 96 to junction Interstate 235, then along Interstate 235 to junction Interstate 35, then along Interstate 35 to the KS–OK State line, then along the KS–OK State line to junction U.S. Hwy. 169, then along U.S. Hwy. 169 to junction U.S. Hwy. 60, then along U.S. Hwy. 60 to the OK–MO State line, then southerly along the OK–MO State line to the MO–AR State line, then along the MO–AR State line to junction U.S. Hwy. 63 to its junction with the IA–MO State line, then along the IA–MO State line to the MO–NE State line, then along the MO–NE State line to junction U.S. Hwy. 136, then along U.S. Hwy. 136 to Beatrice, NE, including points on the described boundary lines and the commercial zones of any such points on the described boundaries or in the described area, restricted against the transportation of (a) packages or articles weighing separately more than 100 pounds or in the aggregate more than 200 pounds from one consignor at one location to one consignee at one location on any day, (b) motion picture film, materials, equipment and supplies used in connection with the exhibition of motion pictures, and confections sold in motion picture theaters, (c) of traffic between department stores, mail order stores, speciality shops and retail stores and the branches or warehouses of such stores, or between department stores, mail order stores, specialty shops and retail stores or the branches or warehouses thereof, on the one hand, and, on the other, the premises of the customer of such stores, and (d) of traffic to the premises of persons who or which have entered into contracts with Merchants Contract Deliveries, Inc., and are served by it pursuant to permits issued by the Commission. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 120631 (Sub-6F), filed June 15, 1979. Applicant: STEPHENS TRUCK LINE, INC., P.O. Box 484, Dickson, TN 37055. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. 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 Nashville and Dickson, TN, (a) over U.S. Hwy 70, (b) from Nashville, TN over Interstate Hwy 40, to junction Interstate Hwy 40 and (i) TN Hwy 48, then over TN Hwy 48 to Dickson, TN, (ii) TN Hwy 46, then over TN Hwy 46 to Dickson, TN, (iii) TN Hwy 96, then over TN Hwy 96 to Dickson, TN, and return over the same routes, (2) between Charlotte, and Dickson, TN, over TN Hwy 48, (3) between White Bluff and Charlotte, TN, over TN Hwy 47, (4) between White Bluff and Burns, TN, over TN Hwy 47, (5) between Dickson and Burns, TN, over TN Hwy 47, (6) between Memphis, and Dickson, TN, from Memphis, TN over Interstate Hwy 40 to junction Interstate Hwy 40, and (a) TN Hwy 48, then over TN Hwy 48 to Dickson, TN, (b) TN Hwy 46, then over TN Hwy 46 to Dickson, TN, and (c) TN Hwy 96, then over TN Hwy 96 to Dickson, TN, and return over the same route, and in (1) through (6) above all intermediate points in Dickson County, TN, and restricted against handling any traffic moving between points in Davidson County, TN, on the one hand, and, on the other, points in Shelby County, TN. (Hearing site: Nashville, TN.)

Note.—The purpose of this application is to convert Certificates of Registration to a Certificate of Public Convenience and Necessity.

MC 124211 (Sub-366F), filed July 5, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting (1)(a) *welders, welder parts, welder systems, and welding compounds*, and (b) *accessories* for the commodities in (1)(a) above, and (2) *materials, equipment, and supplies* used in the manufacture distribution and installation of the commodities in (1) above (except commodities in bulk), between the City of Industry and Santa Fe Springs, CA, on the one hand, and, on the other, points in the United States (except AK, CA, and HI). (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 124251 (Sub-72F), filed July 18, 1979. Applicant: JACK JORDAN, INC., P.O. Box 689, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *paint, paint removers, and liquid paint thinners*, in bulk, in tank vehicles, from points in DeKalb County, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials and supplies* used in the manufacture of commodities named in (1) above, in bulk, in tank vehicles, from the destination points named in (1) above, to the facilities of S. L. Gillman Paint Co., in DeKalb County, GA. (Hearing site: Atlanta, GA.)

MC 127610 (Sub-5F), filed July 16, 1979. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West St., West Bridgewater, MA 02379. Representative: Frank J. Weiner, 15 Court Sq., Boston, MA 02108. Transporting *petroleum products*, in bulk, in tank vehicles, from Providence, Tiverton, and Portsmouth, RI and Revere and Chelsea, MA to points in MA. (Hearing site: Boston, MA or Providence, RI.)

Note.—The purposes of this application are (1) to "convert" applicant's Permit Nos. MC–134677 and MC–134677 (Sub No. 1) into a Certificate of Public Convenience and Necessity and (2) to add Portsmouth, RI as an origin point.

MC 128220 (Sub-27F), filed July 12, 1979. Applicant: RALPH LATHAM, d.b.a. LATHAM TRUCKING COMPANY, P.O. Box 596, Burnside, KY 42519. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. Transporting: *orange juice* in containers, from Bradenton, FL to Ashland, Bowling Green, Campbellsville, Harlan, Hazard, Hiseville, London, Middlesboro and Somerset, KY. (Hearing site: Louisville, KY or Lexington, KY.)

MC 128951 (Sub-27F), filed June 18, 1979. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 1000 N. Front St., New Ulm, MN 56073. Representative: Rodney H. Jeffery (same address as applicant). Transporting *soybean products and soybean by-products*, from points in IA and MN, to points in the United States (except AK and HI). (Hearing site: Minneapolis, MN or St. Paul, MN.)

MC 129410 (Sub-21F), filed July 16, 1979. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Rd., Crystal Lake, IL 60014. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *molasses and animal feed*, in bulk, in tank vehicles, between the facilities of Knappen Molasses Company, Chicago, IL, on the one hand, and, on the other, points in IN, IA, MI, MO, OH and WI.

MC 129510 (Sub-14F), filed July 16, 1979. Applicant: ENGLUND EQUIPMENT COMPANY, a corporation, 740 Old Stage Rd., Salinas, CA 93901. Representative: Michael S. Rubin, 256 Montgomery Street, San Francisco, CA 94104. To operate as a contract carrier, by motor vehicle, in interstate or foreign

commerce, over irregular routes, transporting *automobile tires, shock absorbers, inner tubes, and wheel rims,* from Montgomeryville, PA, Akron, OH and Waco, TX, to Phoenix, AZ, and Albuquerque, NM, limited to transportation performed under a continuing contract(s) with Giant Industries, Inc., of Phoenix, AZ. (Hearing site: San Francisco, CA, or Phoenix, AZ.)

MC 129510 (Sub-15F), filed July 16, 1979. Applicant: ENGLUND EQUIPMENT COMPANY, a corporation, 740 Old Stage Rd., Salinas, CA 93901. Representative: Michael S. Rubin, 256 Montgomery Street, San Francisco, CA 94104. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sunglasses* and (2) *such commodities* used in the manufacture of sunglasses and (3) *display racks for sunglasses,* between Leominster, MA; Tucson, AZ; and Nogales, AZ, under continuing contract(s) with Foster Grant Corporation, of Leominster, MA. (Hearing site: San Francisco, CA, or Phoenix, AZ.)

MC 129631 (Sub-68F), filed July 6, 1979. Applicant: PACK TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: Max D. Eliason, P.O. Box 2602, Salt Lake City, UT 84110. Transporting *brick and fired clay products,* (1) from points in UT to points in WY, ND, SD, and CO, and (2) between points in WY, on the one hand, and, on the other, points in CO, ND, and SD. (Hearing site: Salt Lake City, UT.)

MC 133920 (Sub-20F), filed July 12, 1979. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, GA 31082. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *liquid sodium silicate* in bulk, in tank vehicles, from Nixon, GA to points in AL, FL, MS, NC, SC, TN, and VA. (Hearing site: Atlanta, GA.)

MC 134551 (Sub-15F), filed July 16, 1979. Applicant: LANTER REFRIGERATED DISTRIBUTING CO., #3 Caine Dr., Madison, IL 62060. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *such commodities* as are dealt in by food and grocery stores, in vehicles equipped with mechanical refrigeration, from the facilities of Lanter Refrigerated Distributing Co., at Madison, IL, to points in MO. (Hearing site: St. Louis, MO.)

MC 135170 (Sub-45F), filed July 13, 1979. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and converters of paper and paper products, plastic and plastic products (except in bulk), between points in IL and IN, on the one hand, and, on the other, points in AL, DE, FL, GA, KY, LA, MD, MI, MS, NC, NJ, NY, OH, PA, SC, TN, WV, VA, and DC, under continuing contract(s) with The Continental Group, Inc., of Palatine, IL. (Hearing site: Washington, DC.)

MC 135410 (Sub-77F), filed July 13, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities* as is dealt in by wholesale food and drug houses, from the facilities of Procter & Gamble Company, at or near Cape Giarardeau, Neely's Landing and St. Louis, MO, to points in IL, IN, IA and OH, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Cincinnati or Columbus, OH.)

MC 136511 (Sub-67F), filed June 21, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 23502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St. NW., Washington, DC 20001. Transporting *such commodities as are dealt in or used by manufacturers and distributors of marine engines* (except commodities in bulk), between the facilities of Mercury Marine, Division of Brunswick Corporation, at or near Stillwater, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 138841 (Sub-17F), filed June 18, 1979. Applicant: BLACK HILLS TRUCKING CO., a Corporation, P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Transporting *such commodities* as are dealt in by retail department stores, (except foodstuffs and articles of unusual value), between Columbus, OH, on the one hand, and, on the other, points in ID, MT, and ND. (Hearing site: Rapid City, SD.)

MC 140611 (Sub-1F), filed June 20, 1979. Applicant: HARKEMA EXPRESS LINES, INC., 265 Rutherford Rd. South, Brampton, Ontario, Canada L6W 1V9. Representative: S. Harrison Kahn, Suite 733 Investment Bldg. Washington, D.C. 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, in foreign commerce only transporting *general commodities,* (except those of unusual value, classes A and B explosives, household good as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), (1) between the ports of entry on the international boundary line between the United States and Canada on the Niagara River, on the one hand, and, on the other, Buffalo, NY, and (2) between the ports of entry on the international boundary line between the United States and Canada at Port Huron, MI, and Port Huron, MI. (Hearing site: Buffalo, NY.)

MC 143580 (Sub-2F), filed June 18, 1979. Applicant: FREIGHT SYSTEMS, INC., 6303 Corsair St., Commerce, CA 90040. Representative: Savery L. Nash, 3838 Carson St., Suite 320, Torrance, CA 90503. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed material* between points in Los Angeles County, CA, and points in CA, under continuing contract(s) with The Conde Nast Publications, Inc., of New York, NY. (Hearing site: Los Angeles or San Francisco, CA.)

MC 144041 (Sub-36F), filed July 16, 1979. Applicant: 2705 Canna Ridge Circle, N.E., Atlanta, GA 30345. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. Transporting (1) *frozen foodstuffs and canned foodstuffs* (except frozen) from the facilities of Douglas Foods, Inc. at Douglas, GA to points in the United States (except AK, HI and GA) and (2) *materials, supplies and equipment* used in the manufacture and distribution of foodstuffs in the reverse direction, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Atlanta, GA or Washington, DC.)

MC 144190 (Sub-6F), filed July 10, 1979. Applicant: STORY, INC., Route #1, Box 122, Henager, AL 35978. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. Transporting *unfinished synthetic yard,* from the facilities of Standard Coosa Thatcher, Inc., at or near (a) Guntersville, AL, and (b) Boaz, AL, to points in CA. (Hearing site: Birmingham, AL, Chattanooga, TN.)

MC 144630 (Sub-22F), filed June 18, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *bananas,* and (2) *agricultural commodities* the

transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6), when transported in mixed loads with bananas, from Norfolk, VA, to points in IL, IN, KY, MI, OH, and TN. (Hearing site: Indianapolis, IN.)

MC 145791 (Sub-1F), filed July 16, 1979. Applicant: JAMES B. MILLER, d.b.a. MILLER ENTERPRISES, 405 Hansen Ave., Butler, PA 16001. 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 *such commodities* as are dealt in by home products manufacturers and distributors, (1) from Butler, PA, to points in WV, on and north of U.S. Hwy 50 and then in PA on and west of U.S. Hwy 15, and (2) from Dayton, NJ, to Butler, PA, under continuing contract(s) with Amway Corporation, of Dayton, NJ. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 146071 (Sub-12F), filed June 14, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting (1) *fibre drain, sewer pipe, pipe connections, pipe fittings, tools, and manhole covers and frames,* from the facilities of Bermico Company, at or near West Bend, WI, to points in the United States (except AK and HI) and (2) *materials, equipment and supplies* used in the manufacture or distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 146360 (Sub-8F), filed July 12, 1979. Applicant: FLOYD SMITH, JR. TRUCKING, INC., 5303 Valle Grande, Meridian, ID 83642. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting *frozen vegetable products and frozen fruits,* from the facilities of Idaho Frozen Foods, at or near (a) Nampa and Twin Falls, ID, and (b) Clearfield, UT, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Boise, ID.)

MC 146360 (Sub-9F), filed July 12, 1979. Applicant: FLOYD SMITH, JR. TRUCKING, INC., 5303 Valle Grande, Meridian, ID 83642. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting (1) *bananas and pineapples,* and (2) *agricultural commodities* which are otherwise exempt from regulation under 49 U.S.C. § 10526(a)(6) in mixed loads with bananas and pineapples, from Mobile, AL, Galveston and Corpus Christi, TX, Gulfport, MS, and Wilmington, CA, to ports of entry on the international boundary line between the United States and Canada in WA, ID, MT, ND, MN, MI, NY, VT, NH, ME, and WI. (Hearing site: Boise, ID.)

MC 146361 (Sub-4F), filed July 6, 1979. Applicant: WOLTER TRUCK LINES, INC., R.D. 1, Box 197, Greenwood, DE 19950. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., N.W., Washington, DC 20005. Transporting *fish meal,* in bulk, in dump vehicles, from Gloucester, MA, to Harrisburg, VA, points in Lancaster and York Counties, PA, and those in DE and MD south of the Chesapeake and Delaware Canal and east of the Chesapeake Bay. (Hearing site: Washington, DC.)

MC 145981 (Sub-8F), filed June 18, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *chemicals,* and (2) *materials, equipment, and supplies* used in the manufacture and sale of chemicals (except commodities in bulk), (1) between Salem, MA on the one hand, and, on the other, points in the US (except AK and HI), and (2) Between Toledo, OH and Johnstown, NY. (Hearing site: Boston, MA or Washington, DC.)

MC 146410 (Sub-1F), filed July 9, 1979. Applicant: CONCORD TRUCKING, LTD., General Delivery, New Dayton, Alberta, Canada TOK 1PO. Representative: Charles A. Murray, Jr., 207A Behner Bldg., 2822 Third Ave. North, Billings, MT 59101. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting *irrigation equipment* from points in AZ, CA, CO, GA, IA, ID, KS, MN, MO, NE, OR, OK, TX, UT, and WA, to points of entry on the international boundary line between the United States and Canada. (Hearing site: Billings, MT.)

MC 146570 (Sub-2F), filed July 16, 1979. Applicant: DIAMOND TRANSPORTING, INC., 5797 North Tryon St., Charlotte, NC 28213. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *truck trailers,* between Fort Madison, IA, St. Louis, MO, and points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada, under continuing contract(s) with Fruehauf Corporation of Detroit, MI. (Hearing site: Charlotte, NC.)

MC 146590 (Sub-3F), filed June 18, 1979. Applicant: JOSEPH R. PROSTKO, 1300 Island Ave., McKees Rocks, PA 15136. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk) between the facilities of Crucible, Inc., at (a) Elizabethtown, KY, (b) Breman and Carrollton, GA, (c) East Troy, WI, (d) Chicago, IL, (e) Woodlawn and Streetsboro, OH, (f) Syracuse, NY, and (g) Oakdale, Pittsburgh and Midland, PA, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM, under continuing contract(s) with Crucible, Inc., of Midland, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 146781 (Sub-2F), filed July 9, 1979. Applicant: ZANE SCHACKELFORD, d.b.a. ZANE SCHACKELFORD TRUCKING, Post Office Box 112, Millport, AL 35576. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty, P.O. Box 22628, Jackson, MS 39205. Transporting *peeler cores and wood residuals* (except in bulk, in tank vehicles) from the facilities of Weyerhaeuser Company at or near Millport, AL to Counce, TN and points in MS. (Hearing site: Jackson, MS, or Birmingham, AL.)

MC 147300 (Sub-3F), filed July 12, 1979. Applicant: G & G TRUCKING, INC., 4237 Clayton St., Denver, CO 80216. Representative: Dean Musgrave, 4237 Clayton St., Denver, CO 80216. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter,* from Denver, CO, to Salt Lake City, UT, and Manchester, MO, under continuing contract(s) with Multi-List, Inc., of Denver, CO. (Hearing site: Denver, CO.)

MC 147550 (Sub-1F), filed June 18, 1979. Applicant: FIDELIA, INC., 500 East Central, Benld, IL 62009. Representative: Ray Garner (same address as applicant). Transporting (1) *malt beverages,* in containers, from Detroit, MI, Ft. Wayne, IN, Minneapolis, MN, Cincinnati, OH, and Milwaukee, WI, to the facilities of DeLuka Distributing Co., at Nokomis, IL, Baima Distributing, Inc., at Benld, IL, and L & B Distributing Co., at Mattoon,

IL, and (2) *empty malt beverage containers,* in the reverse direction. (Hearing site: Springfield, IL, or St. Louis, MO.)

MC 147871F, filed July 13, 1979. Applicant: J. F. EDMONDS d.b.a. EDMONDS TRUCKING AND REPAIR, 1506 South 14th St., Princeton, MN 55371. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101. Transporting (1) *cabinets,* from the facilities of Crystal Cabinet Works, Inc. at Princeton, MN to points in ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, ID, UT, AZ, NV, CA, OR, and WA; and (2) *materials, equipment and supplies used in the manufacture of cabinets,* from points in OR, WA, and NM to the facilities of Crystal Cabinet Works, Inc., at Princeton, MN. (Hearing site: St. Paul/Minneapolis, MN; St. Cloud, MN.)

MC 147881F, filed July 5, 1979. Applicant: DALE CROCKETT, d.b.a. DOUBLE D TRUCKING, 1199 North 350 East, P.O. Box 691, Layton, UT 84041. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Transporting *meats, 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 commodities in bulk), from the facilities of Lakin Meat Processors, at Omaha, NE, to points in AZ, CA, CO, ID, KS, MT, NV, OR, UT, WA, and WY. (Hearing site: Omaha, NE.)

MC 147930F, filed July 12, 1979. Applicant: NESCO TRANSPORT, INC., 1743 Meriden-Waterbury Rd., Milldale, CT 06467. Representative: Gerald A. Joseloff, 80 State St., hartford, CT 06103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodites* (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) (a) between the facility of Allegheny Ludlum Steel Corporation, Wallingford Plant, in Wallingford, CT on the one hand, and, on the other, points in the United States (except AK and HI); (b) between the facility of New Britain Machine Division, Litton Industries at New Britain, CT on the one hand, and, on the other, all points in the United States (except AK and HI), in part (a) under a continuing contract(s) with Allegheny Ludlum Steel Corporation, Wallingford Plant, of Wallingford, CT; and in part (b) under a continuing contract(s) with New Britain Machine Division, Litton Industries, of New Britain, CT.

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Decided: January 16, 1980.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 35882 (Sub-4F), filed July 13, 1979. Applicant: BRANDER BUS LINES, INC., 20 Slater Street, Rehoboth, Mass. Representative: James A. Donnelly, Jr., Esquire, 7 North Main Street, Fall River, Mass. 02722. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting *passengers and their baggage,* in special for charter operations, beginning and ending at points in Bristol and Newport Counties, RI and at Fall River, Somerset, Westport, Dartmouth, New Bedford, Fairhaven, and Acushnet, MA., and extending to points in the United States. If a hearing is deemed necessary, applicant requests that it be held in Providence, RI

MC 47583 (S-104F), filed July 13, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kansas 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, Kansas 66044. Authority sought to operate as a COMMON carrier, over IRREGULAR routes, transporting: Fibrous glass insulation and insulating products (except commodities in bulk), from the facilities of Johns-Manville Sales Corporation at or near McPherson, KS, to points in AL, CA, CT, DE, FL, GA, ID, LA, ME, MD, MS, NV, NH, NJ, NC, OH, OR, PA, RI, SC, VT, VA, WA, WV.

MC 61403 (Sub-265F), filed July 9, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. Transporting *white oil and sulfonates,* in bulk, in tank vehicles, from plant site of Marathon Morco Co., at Dickinson, TX, to points in FL, GA, IL, KS, IA, MD, MO, NE, NJ, NV, NC, OH, & TN. (Hearing site: Houston, TX.)

MC 61403 (Sub-268F), filed July 10, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. Transporting *Liquid Chemicals,* in bulk, in tank vehicles, from Pascagoula, MS, to points in IL, LA, and TX. (Hearing site: Atlanta, GA.)

MC 61403 (Sub-269F), filed July 10, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. Transporting *general commodities,* (except classes A and B explosives) in bulk, in tank vehicles, between the Henderson County Riverport Authority Facility in Henderson County, KY, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, OK, KS, and TX. (Hearing site: Louisville, KY.)

MC 70832 (Sub-301F), filed July 18, 1979. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17042. Representative: S. Harrison Kahn, Kahn and Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Transporting *general commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) between Boston, MA, on the one hand, and, on the other, points in Maine on and south of Maine Hwy 25, and points in New Hampshire on and south of a line beginning at the Maine-New Hampshire boundary line and running along New Hampshire Hwy 25 to its intersection with New Hampshire Hwy 104, then along New Hampshire Hwy 104 to its intersection with United States Hwy 4, and then along United States Hwy 4 to its intersection with the Vermont-New Hampshire boundary line.

Note.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Massachusetts.

MC 71452 (Sub-17F), filed July 11, 1979. Applicant: INDIANA TRANSIT SERVICE, INC., 4300 West Morris Street, Indianapolis, IN 46241. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Transporting: *general commodities,* except classes A and B explosives, commodities in bulk, household goods, as defined by the Commission, and articles which, because of size or weight, require special equipment, between Indianapolis, IN and Chicago O'Hare International Airport, at Chicago, IL, restricted to the transportation of shipments having a prior or subsequent movement by air.

MC 71593 (Sub-38F), filed July 11, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. 2nd Street, Scotch Plains, NJ 07076. Representatives: Peter Wolff, P.O. Box 116, Scranton, PA 18504. Transporting: (1) *such commodities* as is dealt in by wholesale, retail, chain grocery and food business houses; agricultural feed business houses; soy products; paste, and flour products; and (2) *materials, equipment*

and supplies used in the development, manufacture and distribution, of the commodities in (1) above (except commodities in bulk) between points in the United States (excluding AK and HI), restricted to shipments originating at or destined to the facilities used by Ralston Purina Company. (Hearing site: New York, NY.)

MC 71593 (Sub-43F), filed July 10, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. 2nd Street, Scotch Plains, NJ 07076. Representative: Peter Wolff, P.O. Box 116, Scranton, PA 18504. Transporting *paper and paper products* (except commodities in bulk) from the facilities of International Paper Company at or near (a) Mobile, AL and (b) Moss Point, MI on the one hand and, and on the other points in MA, CT, NY, NJ, PA, IL, and WI on the other. (Hearing site: New York, NY.)

MC 80653 (Sub-22F), filed 1979. Applicant: DAVID GRAHAM COMPANY, P.O. Box 254 Levittown, PA 19059. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Transporting *iron and steel articles* and *materials and supplies* used in the manufacture thereof (except commodities in bulk), between the facilities of Industrial Coating, Inc., in Baltimore County, MD, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 87523 (Sub-99F), filed July 18, 1979. Applicant: STEWART TRUCKING COMPANY, INC., P.O. Box 5155, Manchester, NH 03108. Representative: Edward J. Kiley, Suite 501, 1730 M Street, NW., Washington, DC 20036. Transporting *containers* between points in ME, NH, VT, MA, RI and CT, on the one hand, and, on the other points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA and DC. (Hearing site: Boston, MA or Washington, DC.)

MC 105782 (Sub-15F), filed July 10, 1979. Applicant: HUGHES REFRIGERATED EXPRESS, INC., P.O. Box 2106, Haines City, FL 33844. Representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. Transporting *frozen foods* from the facilities of Stouffer Foods at or near Solon and Cleveland, OH to points in VA, TN, SC, NC, GA, KY, and FL.

MC 105782 (Sub-14F), filed July 10, 1979. Applicant: HUGHES REFRIGERATED EXPRESS, INC., P.O. Box 2106, Haines City, FL 33844. Representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. Transporting *frozen foods* from Philadelphia, PA, to points in TX.

MC 106603 (Sub-204F), filed July 16, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting: *refractories, and refractory products* from the facilities of the North American Refractory Company at or near Vanport, PA to points in MI, IN, and IL.

MC 107012 (Sub-394F), filed July 20, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Transporting: (1) *appliance* and (2) *appliance parts*, when moving in mixed loads with appliances between the facilities of McGraw-Edison Co. at or near Searcy, AR and Ripon, WI. (Hearing sites: Chicago, IL or Washington, DC.)

MC 107012 (Sub-397F), filed July 16, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Transporting: *Furnaces and air conditioning units*, from the facilities of Friedrich Group-Wylain, Inc., at or near Utica, NY to points in AL and FL, and Lawrenceville, GA. (Hearing sites: New York, NY or Washington, DC.)

MC 107012 (Sub-408F), filed July 16, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, Indiana 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, Indiana 46801. Transporting: cabinet doors and parts and accessories for cabinet doors, from the facilities of Merillat Industries, Inc., at Atkins, VA to Lakeville, MN and Adrian, MI. (Hearing sites: Detroit, MI or Washington, DC.)

MC 107012 (Sub-409F), filed July 16, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, Indiana 46801. Representative: Stephen C. Clifford, P.O. Box 988, Fort Wayne, Indiana 46801. Transporting: (1) fireplaces, air heating and ventilating systems, and barbeque grills, and (2) parts and accessories for the commodities named in (1) above, from the facilities of Mobex Corporation Superior Fireplace Division at (a) Fullerton, CA to points in the United States (except AK and HI), (b) Baltimore, MD to points in the United States in and east of MN, IA, MO, AR, and LA, and (c) Union City, TN to points in and east of MT, WY, CO and NM. (Hearing sites: Los Angeles, CA or Washington, DC.)

MC 107012 (Sub-410F), filed July 16, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, Indiana 46801. Representative: Gerald A. Burns, P.O. Box 988, Fort Wayne, Indiana 46801. Transporting: (1) *artificial Christmas trees*, from the facilities of Marathon Carey-McFall Company, at or near Atlanta, GA, to points in AL, AR, DC, FL, KY, LA, MS, NC, SC, TN, TX and VA, (2) *artificial Christmas trees*, from the facilities of Marathon Carey-McFall Company, at or near Longview, TX, to Atlanta, GA, and (3) *commodities used in the manufacture of artificial Christmas trees*, between Atlanta, GA, Montgomery and Montoursville, PA, and Longview, TX. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 107103 (Sub-20F), filed July 16, 1979. Applicant: ROBINSON CARTAGE CO., 2712 Chicago Drive S.W., Grand Rapids, MI 49509. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. Transporting *iron and steel articles* between the facilities used by Acme Roll Forming Company at or near Sebewaing, MI, on the one hand, and, on the other, points in IA, IL, IN, OH, MN, MO, PA, and WI. (Hearing site: Lansing, MI or Detroit, MI.)

MC 107403 (Sub-1244F), filed July 5, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same address as applicant). Transporting *poultry fats*, in bulk, in tank vehicles, from Natchitoches, LA, to points in the U.S. (except AK & HI). (Hearing site: Washington, DC.)

MC 111812 (Sub-664F), filed July 19, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls, SD 57101. Transporting: *Petroleum products*, (except in bulk), from Franklin, PA to points in FL and GA. Restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Pittsburgh, PA.)

MC 111812 (Sub-668F), filed July 16, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls, SD 57101. Transporting: *Foodstuffs*, from the facilities of The Creamette Co. at or near Minneapolis, MN to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY. (Hearing site: St. Paul, MN.)

MC 112223 (Sub-123F), filed July 19, 1979. Applicant: QUICKIE TRANSPORT COMPANY, 1700 N.E. New Brighton Blvd., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 N.E. New Brighton Blvd., Minneapolis, MN 55413. Transporting *petroleum products*, in bulk, in tank vehicles, from Minot, ND, to points in MN.

MC 114273 (Sub-628F), filed July 19, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: Printed Matter from Dayton, OH to Washington, D.C.; Baltimore, MD; Richmond, VA and Norfolk, VA. (Hearing site: Chicago, IL or Washington, DC.)

MC 114552 (Sub-226F), filed July 16, 1979. Applicant: SENN TRUCKING COMPANY, P.O. Box 220, Newberry, SC 29108. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting chain link fence and fencing materials, from the facilities of Atlantic Steel Company at or near Atlanta, GA to points in IL, IN, KY, MI, MN, OH, and WI. (Hearing site: Atlanta, GA or Columbia, SC.)

MC 114552 (Sub-227F), filed July 9, 1979. Applicant: SENN TRUCKING COMPANY, a corporation, Post Office Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. Transporting (1) *(a) acoustical tile panels and noise control products, (b) accessories for (a) above, and (c) materials, equipment and supplies* used in the manufacture and distribution of the commodities, in (a) and (b) above between the facilities of Acoustiflex Corporation, at or near Hagerstown, MD, on the one hand, and, on the other, points in NY, PA, WV, TN, GA, NC, SC, FL, MD, OH, DE, NJ, VA, CT, RI, MA, NH, VT, ME, IL, and DC, and (2) *materials, equipment and supplies* used in the manufacture and distribution of ceiling and acoustical systems, from points in AL, FL, GA, KY, LA, MS, NC, SC, TN, VA and WV to the facilities of Acoustiflex Corporation at or near Plainfield, IL. (Hearing site: Chicago, IL or Washington, DC.)

MC 114632 (Sub-247F), filed July 10, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson, P.O. Box 287, Madison, SD 57042. Transporting *foodstuffs*, from the facilities of Hunt Wesson Foods (1) at Rossford, OH, to points in NE, IA, MN, WI, MO, KS, NY, PA, MD, NJ, CT, MA, and WV; (2) at Chicago, IL to points in OH, PA, NY, NJ, MD, MA, CT, and WV; and (3) in MN, to points in WI, IA, IL, MO, KS, NE, ND and SD. (Hearing sites: Columbus, OH or Chicago, IL.)

Note.—Dual operations may be involved.

MC 115113 (Sub-34F), filed July 10, 1979. Applicant: IOWA PACKERS EXPRESS, INC., P.O. Box 231, Spencer, IA 51301. Representative: Bill E. Husby (same as above). Transporting *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 Carriers Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, or in tank vehicles), from the facilities of Hawarden of Iowa, Inc., Hawarden, IA, to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NY, NJ, OH, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations, except traffic moving in foreign commerce. (Hearing site: Minneapolis, MN, Sioux City, IA, Omaha, NE.)

MC 115162 (Sub-493F), filed July 9, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. Transporting: *lumber, particleboard, composition board, poles, piling, pallets, timbers and crossties* from points in AR to those points in the United States in and east of WI, IA NE, KS, OK and TX. (Hearing site: Memphis, TN or New Orleans, LA.)

MC 115162 (Sub-495F), filed July 20, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *(1) Tractors (except those with vehicle beds, bed frames and fifth wheels); (2) equipment designed for use in conjunction with tractors; (3) agricultural, industrial and construction equipment; and (4) attachments for the commodities in (2) and (3) above*, (a) From the facilities of J. I. Case Company at or near Burlington and Bettendorf, IA; Terre Haute, IN; and Winnencone, WI to points in AL, AR, FL, GA, LA, MS, NC, SC, TN, TX, and VA; and (b) From the facilities of J. I. Case Company at or near Racine, WI to points in NC, SC, and VA. (Hearing site: Chicago, IL or Milwaukee, WI.)

MC 115233 (Sub-7F), filed July 11, 1979. Applicant: MARSHALL STORAGE COMPANY, a corporation, Highway 19, P.O. Box 145, Marshall, MN 56258. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting: *sugar* (except in bulk), (1) from the facilities of American Crystal Sugar Company at (a) Chaska, Crookston, East Grand Forks, Minneapolis and Moorhead, MN and (b) Drayton, ND to points in AR, IL, IA, KS, MO, NE, OK, SD, TX and WI; and (2) from the facilities of Southern Minnesota Beet Sugar Cooperative near Renville, MN, to points in IA, IL, IN, and WI. (Hearing site: Fargo, ND or Minneapolis, MN.)

MC.115322 (Sub-191F), filed July 16, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Florida 32809. Representative: Warren P. Kurtz, P.O. Box 10177, Taft, FL 32809. Transporting zinc, zinc oxide, zinc dust, zinc dross, zinc residue, metalic cadmium, lead sheets, and materials and supplies used in the manufacture and distribution of the above items (except any commodities in bulk) between the facilities of St. Joe Zinc Company at Jamestown (Potter Township, Beaver County), PA and points in the United States in and east of MN, IA, MO, AR and LA.

Note.—If hearing is deemed necessary, the Applicant requests it be held at Pittsburgh, PA.

MC 115322 (Sub-193F), filed July 13, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: Warren P. Kurtz, P.O. Box 426, Tampa, FL 33601. Transporting petroleum and petroleum products from Bradford, PA, to points in VA, NC, SC, GA, FL, AL, MS, LA and TN. (Hearing site: Washington, DC.)

MC 115322 (Sub-197F), filed July 13, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Florida 32809. Representative: Warren P. Kurtz, P.O. Box 10177, Taft, FL 32809. Transporting (1) *paper and paper products* from the facilities of International Paper Company at or near Ticonderoga, NY to points in PA, MD, DE, VA, NC, SC, GA, TN, FL, AL, MS, LA, KY, and DC and (2) *materials and supplies* used in the manufacturing and distribution of paper and paper products in the reverse direction. (Hearing site: Washington, DC.)

MC 116763 (Sub-544F), filed July 9, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH, 45380. Representative: H. M. Richters, North West St., Versailles, OH 45380. Transporting *foodstuffs* (except in bulk, in tank vehicles), from points in TX, to Kansas City, KS and those points in the United States in and east of MN, IA, MO, OK, TX and KS, restricted to the

transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Houston, TX.)

MC 116763 (Sub-545F), filed July 9, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters, North West Street, Versailles, OH 45380. Transporting *preserved foodstuffs* (except in bulk, in tank vehicles) and *canned foodstuffs* from the facilities of Heinz USA at or near Mechanicsburg, PA, to points in ME, NH and VT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Pittsburgh, PA.)

MC 116763 (Sub-546F), filed July 10, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters, North West Street, Versailles, OH 45380. Transporting *foodstuffs* (except in bulk, in tank vehicles) from the facilities of Ovaltine Products, Inc. at or near Villa Park, IL, to those points in the United States in and east of MN, IA, KS, NE, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 116763 (Sub-547F), filed July 10, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters, North West St., Versailles, OH 45380. Transporting *such commodities as are used, manufactured or dealt in by producers of rubber, plastic and chemicals, and rubber, plastic and chemical products* (except commodities in bulk, in tank vehicles), between points in the U.S. in and east of MN, IA, MO, OK and TX. Restricted to the transportation of traffic originating at or destined to the facilities of Uniroyal, Inc. (Hearing site: Hartford, CT.)

MC 116763 (Sub-548F), filed July 13, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Representative: H. M. Richters, North West Street, Versailles, Ohio 45380. Transporting *foodstuffs* (except in bulk, in tank vehicles), from North East and Erie, PA to points in CT, ME, MA, NH, NJ, NY, OH, PA, RI and VT. Restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Chicago, IL.)

No. MC 116763, (Sub-549F), filed July 13, 1979, Applicant, CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380, Applicant's Representative: H. M. Richters, North West Street, Versailles, OH 45380. Transporting *(1) Paper trays and corrugated posts,* from Paris, TN, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VT, VA, WV and DC. *(2) Clay, clay products, paper trays and corrugated posts* (except in bulk, in tank vehicles), from Bloomfield (Stoddard Co), MO, to points in AR, CO, IL, IA, KS, MN, MO, NE, NM, ND, OK, SD, TN and WY, *(3) Clay, clay products, paper trays and corrugated posts,* from Olmsted, IL, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI and DC, and *(4) Equipment, materials and supplies used in the manufacture and distribution of clay, clay products, paper trays and corrugated posts,* from points in the United States (except AK and HI), to Paris, TN, Olmsted, IL and Bloomfield (Stoddard Co), MO. Restricted in Parts (1) through (4) above to the transportation of traffic originating at the named origins and destined to the named destination points. (Hearing site: Chicago, IL.)

No. MC 116763, (Sub-556F), filed July 16, 1979, Applicant, CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380, Applicant's Representative: H. M. Richters, North West Street, Versailles, OH 45380. Transporting *(1) frozen and canned foodstuffs, and (2) materials, supplies and equipment used in the manufacture and distribution of foodstuffs* (except commodities in bulk, in tank vehicles), between the facilities of Douglas Foods, Inc., at Douglas, GA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Douglas Foods, Inc. (Hearing site: Atlanta, GA.)

No. MC 116763, (Sub-557F), filed July 12, 1979, Applicant, CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380, Applicant's Representative: H. M. Richters, North West Street, Versailles, OH 45380. Transporting *non-alcoholic cocktail mixes, cooking wines, advertising materials and supplies* (except in bulk, in tank vehicles), from the facilities of Holland House Brands Company, A Division of National Distillers, at or near Ridgefield, NJ to points in AR, IA, IL, IN, KS, KY, MI, MN, MO, NB, OH, OK, TN and WI. Restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York City, NY.)

No. MC 116763, (Sub-558F), filed July 16, 1979, Applicant, CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380, Applicant's Representative: H. M. Richters, North West Street, Versailles, OH 45380. Transporting *such commodities as are used in the manufacture or distribution of foodstuffs* (except commodities in bulk, in tank vehicles), between points in the United States in and east of MN, IA, MO, OK and TX. Restricted to the transportation of traffic originating at, or destined to the facilities of Vlasic Foods, Inc. (Hearing site: Detroit, MI.)

MC 118142 (Sub-231F), filed July 19, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kansas 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kansas 67202. Transporting, meats, meat products, meat byproducts and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the Report *Descriptions in Motor Carrier Certificates* 61 MCC 209 and 766 (except hides and commodities in bulk) from the facilities of Sunflower Beef Division, Del Pero-Mondon Meat Company, Wichita, KS to points in IL, IN, MN, MO, NE, ND, OH, SD and WI. Hearing site: Wichita, KS or Kansas City, MO.

MC 118202 (Sub-128F), filed July 16, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Transporting *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) (1) from the facilities of West Coast Shipper's Association, Inc., at Philadelphia, PA and Jersey City, NJ to points in IL, MN, MO and WI, and (2) from the facilities of East West Shipper's Association at Chicago, IL_o to Philadelphia, PA and Jersey City, NJ, restricted in (1) and (2) to the transportation of shipments originating at the above named shipper facilities and destined to the indicated destinations, and (3) between Chicago, IL and Marinette, WI. (Hearing site: Philadelphia, PA or Washington, DC.)

MC 118202 (Sub-131F), filed July 16, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, Minnesota 55987. Applicant's Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minnesota 55402. Transporting: (1) *flour, animal and poultry feed and feed ingredients, and*

animal and poultry health products (except commodities in bulk) from Sioux City, IA, Louisville, KY, and Hopkins and Mankato, MN to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI; and (2) *commodities used in the manufacture of the commodities in (1) above* (except commodities in bulk) points in the reverse direction.

MC 119422 (Sub-70F), filed July 19, 1979. Applicant: EE–JAY MOTOR TRANSPORTS, INC., 15th & Lincoln, East St. Louis, IL 62204. Representative: E. J. Dougherty, 15th & Lincoln, East St. Louis, IL 62204. Transporting: (1) *Sweeteners,* in bulk, in tank vehicles, from the facilities of Industrial Sugars, Inc., a subsidiary of Borden, Inc., at or near St. Louis, MO, to points in TN, AR, KS, KY, MS and OH; and (2) *Materials and supplies* used in the production and distribution of sweeteners, in bulk, in tank vehicles, from points in MO, IN, KY, AR, IA, IL, OH, TN and KS, to the facilities of Industrial Sugars, Inc., a subsidiary of Borden, Inc., at or near St. Louis, MO. Hearing site: St. Louis, MO.

MC 119632 (Sub-104F), filed July 10, 1979. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence, 634 Ralston Ave., Defiance, OH 43512. Transporting *canned and preserved foodstuffs* (except in bulk and frozen) from the facilities of Heinz U.S.A. at or near Fremont and Toledo, OH, to points in IL and WV, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Pittsburgh, PA.)

MC 121223 (Sub-8F), filed July 11, 1979. Applicant: GEORGE HALLDEN SONS CO., a corporation, P.O. Box 2271, 3710 LeHarps Road, Youngstown, OH 44504. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. 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 Steubenville, OH, on the one hand, and, on the other, points in OH. (Hearing site: Washington, DC, or Pittsburgh, PA.)

Note.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity.

MC 121223 (Sub-9F), filed July 11, 1979. Applicant: GEORGE HALLDEN SONS CO., a corporation, P.O. Box 2271, 3710 LeHarps Road, Youngstown, OH 44504. Representative: Charles A. Hallden, Sr., P.O. Box 2271, 3710 LeHarps Road, Youngstown, OH 44504. Transporting *iron and steel articles,* from the facilities of Wheeling-Pittsburgh Steel Corporation at (1)(a) Allenport and Monessen, PA, and (b) Beechbottom, Benwood, Follansbee and Wheeling, WV to points in OH; and(2)(a) Allenport and Monessen, PA and (b) Steubenville, OH to points in the Lower Peninsula of MI. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 123872 (Sub-108F), filed July 19, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same as applicant). Transporting *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 of Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from the facilities used by John Morrell & Co. at or near Amarillo, TX; Arkansas City, KS; East St. Louis, IL; El Paso, TX; Estherville, IA; Sioux City, IA; Sioux Falls, SD; St. Paul, MN; and Wichita, KS, to points in GA, NC, SC, VA and TN, restricted to the transportation of traffice originating at the facilities used by John Morrell & Co. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 123872 (Sub-109F), filed July 10, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Boulevard, McLean, VA 22101. Transporting *bathroom furniture and accessories,* from the facilities of LaMont, Ltd. at Burlington, IA, to points in NC, SC and GA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 123993 (Sub-48F), filed July 11, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA, 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX 78701. Transporting: (1) *Malt beverages* and *non alcoholic beverages,* (2) and *materials and supplies* used in the manufacture and distribution of (1) above (except commodities in bulk) between Houston, TX, on the one hand, and, on the other, points in LA. (Hearing site: New Orleans or Baton Rouge, LA.)

Note.—Dual operations may be involved.

MC 123993 (Sub-49F), filed July 11, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 75790. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX 78701. Transporting (a) *glass containers,* of 1 gallon or less capacity, and (b) *closures* for (a) above from the facilities of Brockway Glass Co., Inc. at or near Montgomery, AL to points in LA. (Hearing site: New Orleans or Baton Rouge, LA or Montgomery, AL.)

Note.—Dual operations may be involved.

MC 123993 (Sub-50F), filed July 11, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX 78701. Transporting *Textile products* from the plant site of Amoco Fabrics Company at or near Nashville, GA to points in LA, MS and TX. (Hearing site requested: New Orleans, LA or Atlanta, GA.)

Note.—Dual operations may be involved.

MC 124692 (Sub-298F), filed July 11, 1979. Applicant: SAMMONS TRUCKING (a corporation), P.O. Box 4347, Missoula, MT. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *iron and steel articles,* from the facilities of the United States Steel Corporation at or near Lorain, Cleveland, and McDonald, OH, to points in UT, ID, and CA. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 125882 (Sub-No.4F), filed July 16, 1979. Applicant: WESTERN HAULERS, INC., 1457 West Maple Street, Denver, CO 80223. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *rock and ore samples and commodities used by or dealt in by mining companies,* between Denver, CO, on the one hand, and, on the other, points in WY, restricted to the transportation of traffic originating at or destined to the facilities of Rocky Mountain Energy Company. (Hearing site: Denver, CO.)

MC 124692 (S-302F), filed July 16, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, P.O. Box 4347, Missoula, MT 59806. Transporting: *Prefabricated Metal Buildings,* knocked down, *component parts, materials, and accessories for prefabricated metal buildings,* from Spanish Forks, UT; to points in MN, IA, and WI. (Hearing site: St. Paul, MN.)

MC 125023 (Sub-No. 76F), filed July 9, 1979. Applicant: SIGMA–4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Applicant's representative: Richard C. McGinnis, 711 Washington Bldg., Washington, DC 20005. Transporting

glass containers from Washington, PA, to points in IL, IN, MI, OH and WI. (Hearing site: Washington, DC.)

MC 125433 (Sub-239F), filed July 9, 1979. Applicant: F–B TRUCK LINE COMPANY (a corporation), 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). Transporting (1)(a) *garage door operators* and (b) *parts, attachments and accessories for (a) above* from Nogales, AZ to Alsip, IL, and (2) *materials equipment and supplies* (except in bulk), used in the manufacture of (1) above, from Alsip, IL to Nogales, AZ, restricted to this transportation of traffic originating at or destined to the facilities used by Chamberlain Manufacturing Corporation. (Hearing site: Chicago, IL.)

MC 125882 (Sub-4F), filed July 16, 1979. Applicant: WESTERN HAULERS, INC., 1457 West Maple Street, Denver, CO 80223. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock and ore samples and commodities used by or dealt in by mining companies*, between Denver, CO, on the one hand, and, on the other, points in WY, restricted to the transportation of traffic originating at or destined to the facilities of Rocky Mountain Energy Company. (Hearing site: Denver, CO.)

MC 128273 (Sub-362F), filed July 11, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Transporting *such commodities* as are used or dealt in by manufacturers and distributors of charcoal and charcoal briquets (except commodities in bulk in tank vehicles and those which because of size or weight require the use of special equipment).

1. Between Ocala and Romeo, FL; Isanti, MN; Scotia and Stamford, NY; White City, OR; and Waupaca, WI, on the one hand, and, on the other, points in the United States (except AK and HI),

2. From Branson, MO to those points in the US in and west of ND, SD, NE, CO, OK, and TX (except AK and HI),

3. From Pachuta, MS, to points in the US (except AL, AK, FL, GA, LA, HI, MS, NC, SC, and TN),

4. From Dickinson, ND, to points in the US in and east of ND, SD, NE, KS, MO, AR, and LA (except MN, ND, and WI), and

5. From points in the US (except AK and HI) to Branson, MO; Pachuta, MS; and Dickinson, ND, restricted to the transportation of traffic originating at or destined to the facilities of Husky Industries, Inc. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 129032 (Sub-94F), filed July 10, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same as applicant). Transporting *glass containers and pallets*, between the facilities of Midland Glass Company at or near (1)(a) Warner Robins, GA, (b) Terre Haute, IN, (c) Shakopee, MN, and (d) Cliffwood, NJ, on the one hand, and, on the other, points in the US (except AK and HI) (2) Henryetta, OK, on the one hand, and, on the other, points in the US (except AK, AR, CO, HI, IA, KS, LA, MS, MO, NE, NM, TN, and TX) restricted to the transportation of traffic originating at or destined to the named points. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 129032 (Sub-95F), filed July 16, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). Transporting: *Plastic pellets*, reprocessed, (1) from the facilities of Simpson Plastics at or near Shawnee and Tulsa, OK to points in IL, MI, and TX; and (2) from the facilities of Simpson Plastics at or near Houston, TX, to points in IL and MI, restricted to the transportation of traffic originating at the above named locations and destined to the above named destinations. (Hearing site: Oklahoma City, OK, or St. Louis, MO.)

MC 129702 (Sub-7F), filed July 16, 1979. Applicant: CARPET TRANSPORT, INC., Route 5 Lovers Land Road, Calhoun, GA 30701. Applicant's Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting: *Carpeting and rugs*, between points in Hamilton County, TN, GA and SC, on the one hand, and, on the other, points in FL. (Hearing: site: Atlanta, GA.)

MC 134592 (Sub-24F), filed July 19, 1979. Applicant: HERB MOORE AND HAZEL MOORE, d.b.a., H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, OR 97217. Applicant's Representative: Philip G. Skofstad, 1525 NE Weidler, Portland, OR 97232. Transporting *pulp and paper mill products* from Bellingham, WA, to points in CA. (Hearing: site: Portland, OR.)

MC 135803 (Sub-8F), filed July 19, 1979. Applicant: WALLACE TRANSPORT, 9290 E. Hwy. 140 (P.O. Box 67), Planada, CA 95365. Applicant's Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting: *Fibrous glass products and materials, mineral wool products and materials, air ducts, insulating products and materials; glass fibre rovings, yarn and strands; and glass fibre mats and fittings; (except commodities in bulk)*, from the facilities of CertainTeed Corp. at or near Chowchilla, CA to points in AZ, ID, NV, OR, UT and WA. (Hearing site: Los Angeles, CA.)

MC 135982 (Sub-28F), filed July 16, 1979. Applicant: S. L. HARRIS, d.b.a. PBI, a corporation, P.O. Box 7130, Longview, Texas 75602. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, Texas 75245. Transporting *cloth* from the facilities of the Chase Bag Company at New Orleans, LA to Dallas and Houston, TX. (Hearing site: Dallas, TX or New Orleans, LA.)

MC 136782 (Sub-20F), filed July 10, 1979. Applicant: R.A.N. TRUCKING COMPANY (a corporation), P.O. Box 128, Eau Claire, PA 16030. Representative: Warren W. Wallin, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. Transporting *meats, meat products, meat by-products, dairy 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 Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk), between the facilities of Northside Packing Company at Pittsburgh, PA, on the one hand, and, points in IL, IN, OH, MI, WV, VA, DC, MD, DE, NJ, NY, CT, MA and RI, on the other. (Hearing site: Pittsburgh, PA or Cleveland, OH.)

MC 138313 (Sub-56F), filed July 9, 1979. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT, 84111. Transporting: *sulfur and soil conditioners* from the facilities of Montana Sulphur and Chemical Company at or near Billings, MT to OR, WA, ID, and UT. (Hearing site: Billings, MT.)

MC 138732 (Sub-30F), filed July 13, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, P.O. Box 5546, Orange, CA 92667. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202. Transporting: *Iron and steel articles*, from the facilities of C F & I Steel Corporation at Pueblo, CO to points in AZ, CA and NV. Applicant holds contract carrier authority under MC–133928 and subs thereunder, dual operations may be involved. (Hearing site: Denver, CO or San Francisco, CA.)

MC 138762 (Sub-41F), filed July 18, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada, T2P 2P9. Representative: Richard H. Streeter, 1729 H Street, NW, Washington, D.C. 20006. To operate as a common carrier, by motor vehicle, in foreign commerce only, over irregular routes, transporting *molten sulphur* in bulk, in tank vehicles, from ports of entry on the Canada/United States international boundary line in MI to Detroit and Bay City, MI. (Hearing site: Washington, DC.)

MC 138882 (Sub-275F), filed July 11, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Applicant's Representative: Mr. John J. Dykema, P.O. Drawer 707, Troy, AL 36081. Transporting: *equipment, materials, and supplies used in the manufacture and distribution of plastic pipe* (except commodities in bulk in tank vehicles) from points in the U.S. (except AK and HI) to points in Geneva County, AL. (Hearing site: Birmingham, AL or Montgomery, AL.)

MC 139483 (Sub-4F), filed July 13, 1979. Applicant: ALLEN MITCHEK, P.O. Box 512, Sterling, CO 80751. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting: *dry fertilizer,* from Sidney, NE, to points in CO, WY, SD, and NE. (Hearing site: Denver, CO.)

MC 139763 (Sub-3F), filed July 16, 1979. Applicant: OAK HARBOR FREIGHT LINES, INC., 6350 South 143rd Street, Seattle, WA 98168. Representative: John G. McLaughlin, Suite 1440–200 Market Bldg., 200 S.W. Market Street, Portland, OR 97201. Authority sought to operate as *common carrier,* by motor vehicle, over regular routes, transporting, *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment) between Portland, OR and Seattle, WA, over Interstate Hwy 5, serving Olympia, WA and all intermediate points north of Olympia, WA. (Hearing site: Seattle, WA and Portland, OR.)

MC 140612 (Sub-71F), filed July 16, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Representative: J. L. Kazimour, (same as applicant). Transporting *floor coverings, materials equipment and supplies used in the installation, manufacture, and sales of floor coverings, (except commodities in bulk in tank vehicles).* From Landrum and Greenville, SC and Lyerly, GA to points in the United States in and west of MI, OH, KY, TN, NC, SC, GA, and FL. (Hearing site: Greenville, SC or Atlanta, GA.)

MC 141033 (Sub-57F), filed July 16, 1979. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91479. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting: Carpet strips, molding, staples, tools, nails, adhesives, sealants, solvents, stains, wood preservatives, and materials, equipment and supplies used in the manufacture and distribution of the above-named commodities between Los Angeles, CA Harbor and Calexico, CA. (Hearing site: Los Angeles, CA or Washington, DC.)

MC 141033 (Sub-58F), filed July 13, 1979. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting: Such commodities as are dealt in by appliance manufacturers, from points in IL, and IN to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 141392 (Sub-1F), filed July 16, 1979. Applicant: THE TAURO BROTHERS TRUCKING, CO., 1775 North State Street, Girard, OH 44420. Applicant's Representative: James Duvall, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. Transporting: *Commodities in bulk, in dump vehicles,* between points in Beaver, Butler, Lawrence and Mercer Counties, PA, and Ashtabula, Columbiana, Cuyahoga, Lake, Mahoning and Trumbull Counties, OH. (Hearing site: Columbus, OH.)

MC 142283 (Sub-8F), filed July 9, 1979. Applicant: VOORHORST, INC., 2099 East Packard Highway, Charlotte, MI 48813. Applicant's Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Transporting: *soybean meal* from the facilities of Cargill, Inc., at Chicago, IL to points in IN, MI, and WI. (Hearing site: Lansing, MI.)

MC 142463 (Sub-6F), filed July 19, 1979. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha Street, P.O. Box 567, Sioux City, Iowa 51102. Representative: Stewart A. Huff, 314 Security Bank Building, Sioux City, Iowa 51101. Transporting *iron and steel articles, plumbing and heating supplies, furnaces and furnace parts, air-conditioners and air-conditioner parts, bathroom and kitchen fixtures and cabinets, metal conduit, copper wiring and tubing, fiber glass products, and aluminum and aluminum products* from points in CA, IL, IN, KY, MI, MN, MO, NJ, NY, OH, PA, TN, WV and WI to Sioux City, Iowa, restricted to the transportation of traffic originating at the named origins and destined to the named destinations.

Note.—Applicant holds motor contract carrier authority in No. MC–135117 (Sub-Nos. 3 and 7), and therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Sioux City, Iowa.

MC 142513 (Sub-7F), filed July 16, 1979. Applicant: BIRK TRANSFER, INC., 360 Wheatland Avenue, Conemaugh, PA. 15909. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219. Transporting: *Lumber,* from points in NC and SC to points in PA. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 142743 (Sub-17F), filed July 16, 1979. Applicant: FAST FREIGHT SYSTEMS, INC., P.O. Box 132C, Tupelo, Mississippi 38801. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, Michigan 48167. Authority sought to operate as a *common* carrier by motor vehicle, over *irregular* routes transporting: *metal and metal products and containers for metal and metal products and equipment, materials and supplies used in the manufacture of such commodities* (except commodities in bulk), between the facilities of Mueller Brass Company at or near Covington, TN on the one hand, and on the other, points in the United States (except AK and HI).

MC 143503 (Sub-22F), filed July 19, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Applicant's representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *such commodities as are dealt in by retail department stores,* from the facilities of J.C. Penney Company in Washington, D.C.; MD, and VA to points in DC; MD; that part of VA in and north of Gloucester, King and Queen, King William, North Hampton, Accomack, Hanover, Louisa, Albemarle, and Rockingham Counties, VA; Franklin, Adams, York, and Lancaster Counties, PA; and Morgan, Berkeley, and Jefferson Counties, WV. (Hearing site: Washington, D.C.)

MC 143503 (Sub-23F), filed July 13, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Applicant's

representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting: *new furniture, furnishings,* and *accessories,* from Boston, MA; Hartford, CT; Manchester, NH; Hyannis, MA; and Providence, RI to points in RI, MA, Hartford, Tolland, Windham, and New London Counties, CT; Bennington and Windham Counties, VT; Sullivan, Cheshire, Merrimack, Hillsboro, Belknap, Rockingham, and Strafford Counties, NH, Albany, Columbia, Rensselaer, and Washington Counties, NY, and Cumberland and York Counties, ME. (Hearing site: Boston, MA.)

MC 143503 (Sub-24F), filed July 19, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Applicant's representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting: *New furniture, furnishings,* and *accessories,* between points in DE; NJ; Berks, Carbon, Chester, Dauphin, Delaware, Lancaster, Lebanon, Philadelphia, Lehigh, Monroe, Montgomery, Northhampton, Bucks, Schuykill, and York Counties, PA; and Baltimore, Caroline, Cecil, Dorchester, Harford, Kent, Queen Annes, Talbot, Wicomico, and Worchester Counties and Baltimore City, MD. (Hearing site: Washington, DC.)

MC 144122 (Sub-57F), filed July 9, 1979. Applicant: CARRETTA TRUCKING, INC., S. 160 Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta (same as above). Transporting (1) *tape and tape products* (a) between the facilities of Technical Tape, Inc., at Beacon, NY, Passiac, NJ, and Carbondale, IL, (b) from Beacon, NY, and Passiac, NJ, to points in IL, GA, TX, and MO, and (c) from Carbondale, IL, to points in PA, NY, NJ, CT, MA, and RI, and (2) *materials, supplies and equipment* used in the manufacture of tape and tape products (except commodities in bulk) from those points in the US in and east of WI, IA, NE, KS, OK, and TX, to Carbondale, IL, Passiac, NJ and Beacon, NY. (Hearing site: New York, NY or Washington, DC.)

Note.—Dual operations may be involved.

MC 144572 (Sub-20F), filed July 9, 1979. Applicant's name: MONFORT TRANSPORTATION COMPANY, a corporation, P.O. Box G, Greeley, CO 80631. Applicant's representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. Transporting: *plastic and rubber articles; plastic and rubber articles with wire; and displays,* from the facilities of Rubbermaid, Inc. at Wooster, OH to points in CO, IA, KS, MO and NE, restricted against the transportation of commodities in bulk. (Hearing site: Cleveland, OH.)

Note.—Dual operations may be involved.

MC 144622 (Sub-82F), filed July 16, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72209. Representative: Robert D. Gisvold, 1000 First National Bank Bldg. Minneapolis, MN 55402. Transporting *zinc, zinc oxide, zinc dust, lead sheet, metallic cadmiun, zinc dross, zinc residue, and materials, equipment and supplies* used in the production of the above named commodities, between the facilities of St. Joe Zinc Company at Josephtown (Potter Township, Beaver County), PA, on the one hand, and, on the other, points in TN, MS and those in the United States west of the Mississippi River, and East St. Louis, IL. (Hearing site: Chicago, IL or Washington, DC.)

MC 144622 (Sub-86F), filed July 16, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Bob Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting: *General commodities (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, Class A & B Explosives, and commodities which because of size or weight require the use of special equipment),* between the facilities of Gibson Metalux, Inc. at Eufaula, AL, on the one hand, and, on the other, points in the Untied States (except AK and HI). (Hearing site: Washington, DC.)

MC 145152 (Sub-98F), filed July 9, 1979. Applicant: BIG THREE TRANSPORTATION, INC., Post Office Box 159, Springdale, AR 72764. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. Transporting: *Foodstuffs, canned, preserved or prepared* (except frozen). From the facilities of Ocean Spray Cranberry Corporation, at or near (a) Middleboro, MA; (b) Bordentown, NJ, (c) North East PA (d) Sulphur Springs, TX; and (e) Kenosha, WI, to points in AL, AR, CO, GA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NC, ND, NE, NM, OH, OK, PA, SC, SD, TN, TX, VA, WI and WV. (Hearing site: Boston, MA or Fayetteville, AR.)

MC 145152 (Sub-100F), filed July 16, 1979. Applicant: BIG THREE TRANSPORTATION, INC., Post Office Box 706, Springdale, AR 72764. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. Transporting: *waste paper* from Rogers, AR to points in the United States (except AK, AR and HI). (Hearing site: Fayetteville, AR.)

MC 145992 (Sub-2F), filed July 18, 1979. Applicant: THE TOWN TOUR FUN BUS COMPANY, INC. d.b.a. FUN BUS SYSTEMS, 304 Katella Way, Anaheim, CA 92802. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting: *passengers and their baggage in round trip special and charter operations,* beginning and ending at points in Los Angeles and Riverside Counties, CA and extending to points in AZ, CO, ID, NV, and UT. (Hearing site: Anaheim, CA or Los Angeles, CA.)

MC 146293 (Sub-27F), filed July 19, 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. Transporting charcoal and charcoal briquettes, grills, lighter fluid, and materials, equipment and supplies used in the manufacture and distribution of such commodities, (except in bulk), from White City, OR to points in CA. (Hearing site: Atlanta, GA.)

MC 146432 (Sub-3F), filed July 18, 1979. Applicant: THE HIRT TRUCKING COMPANY, 771 Walnut Street, Lancaster, OH 43420. Representative: John L. Alden, 1396 West Fifth Avenue, P.O. Box 12241, Columbus, OH 43212. Transporting: *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 (a) Holland, MI, and (b) Fremont and Toledo, OH on the one hand, and, on the other, points in IN, MI, and OH, restricted to the transportation of traffic originating at or destined to the named facilities.

MC 146843 (Sub-2F), filed July 13, 1979. Applicant: F & H EXPRESS, Lambert Field, St. Louis, MO. Representative: Russell Watters, 112 N. 4th Street, St. Louis, Missouri. Transporting *general commodities,* (except articles of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between St. Louis, MO on the one hand, and, on the other, Jefferson City, Columbia, Washington, Union, Fulton, Warrensburg, Sedalia, Tipton, California, Herman, New Haven and Kansas City, MO restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: St. Louis, Missouri.)

MC 147113 (Sub-2F), filed July 11, 1979. Applicant: TEPPCO TRANSPORT, INC., P.O. Box 2218, 1111 East 39th Street, Chattanooga, TN 37409.

Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. Transporting *Silicon Carbide Briquettes* from Springdale, PA to Chattanooga, TN. (Hearing site: Chattanooga or Knoxville, TN.)

MC 147352 (Sub-2F), filed July 19, 1979. Applicant: JAMES MERFELD, Dougherty, Iowa 50433. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, Iowa 50309. Transporting: *Animal feed and animal feed ingredients,* in bags, from the facilities of Fermented Products, Inc. at or near Mason City, IA, to points in IN, MN, and WI. (Hearing site: Minneapolis, MN or Des Moines, IA.)

MC 147882F, filed July 20, 1979. Applicant: P.B.F. ENTERPRISES, INC., 3024 Jupiter Street, Akron-Canton Regional Airport, North Canton, OH 44720. Representative: Barry Boyd, One South Main Street, Akron, Ohio 44308. Transporting *55 gallon drums, 120 lb. Grease Barrels, Anti Freeze in Drums, Cased Anti-Freeze, automotive chemicals, petroleum dispensing equipment, liquid metering units, curb-side accessories, gas line dispensing devices, and repair parts,* between points in Ohio, Pennsylvania, West Virginia, Tennessee and Indiana. (Hearing site: Cleveland, OH or Washington, DC.)

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Decided: February 1, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones

MC 43963 (Sub-21F), filed July 20, 1979. Applicant: CHIEF TRUCK LINES, INC., 1479 Ripley Street, Lake Station, IN 46405. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *aluminum and aluminum articles,* from the facilities of Kaiser Aluminum & Chemical Corporation at or near Ravenswood, WV, to points in IL, IN, IA, MI, MN, MO and WI. (Hearing site: Washington, DC.)

MC 61403 (Sub-266F), filed July 23, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. Transporting *Chemicals,* in bulk, in tank vehicles, from Jonesboro, GA, to points in the US (except AK and HI). (Hearing site: Atlanta, GA.)

MC 64373 (Sub-11F), filed July 23, 1979. Applicant: CLARKSON BROS. MACHINERY HAULERS, INC., P.O. Box 788, Cowpens, SC 29930. Representative: E. Clifford Clarkson (same address as applicant). Transporting (1) *industrial plant equipment* and (2) *materials and supplies and commodities* used in the operation, dismantling or assembly of industrial plants between points in TX, those in LA east of the Mississippi River, and those in the US in and east of WI, IL, TN, KY, and MS (except WI). (Hearing site: Washington, DC.)

MC 80443 (Sub-27F), filed July 20, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting *salt and salt products* (except in bulk) from the plant site of Hardy Salt Company at Manistee, MI, to points in IL, IN, IA, KY, MD, MO, NJ, NY, OH, PA, TN, WI, VA, WV, and MN. (Hearing site: Minneapolis or Saint Paul, MN.)

MC 106603 (Sub-203F), filed July 20, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW, P.O. Box 8099, Grand Rapids, MI 49508. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *iron and steel articles* from the facilities used by United States Steel Corp. in (a) Allegheny and Westmoreland Counties, PA and (b) Mahoning, Trumball, Cuyahoga and Lorain Counties, OH, to points in IN, IL, MI, WI, KY, and OH. (Hearing site: Washington, DC or Chicago, IL.)

MC 107012 (Sub-389F), filed July 23, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Transporting appliances from the facilities of Amana Refrigeration, Inc. at or near Amana, IA to points in AL, CA, FL, GA, KY, LA, MS, NC, SC, TN and VA. (Hearing sites: Des Moines, IA; Cedar Rapids, IA or Davenport, IA.)

MC 107012 (Sub-390F), filed July 23, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Transporting: *carpet tile,* from the facilities of Armstrong Cork Company, at or near Marietta, PA to points in IL, IN, IA, KS, KY, MI, MO, NE, OH and WI. (Hearing sites: Philadelphia, PA or Washington, DC.)

MC 107012 (Sub-391F), filed July 23, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Transporting appliances from the facilities of Franklin Manufacturing Co., Inc. at or near Webster City and Fort Dodge, IA to points in AR, CA, FL, GA, KY, LA, NC, SC, TN and VA. (Hearing sites: Des Moines, IA or Omaha, NE.)

MC 107012 (Sub-395F), filed July 23, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Transporting *new furniture,* from the facilities of La Crosse Furniture Company at or near La Crosse, KS, to points in IA, MN, and NE. (Hearing sites: Kansas City, KS or Omaha, NE.)

MC 107012 (Sub-396F), filed July 27, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, (same address as applicant). Transporting (1) *plastic and steel containers* (2) *pails* (except those in (1), and (3) *closures and handles for those described in (1) and (2) above,* from the facilities of Bennett Industries, at or near Peotone, IL to points in IA, IN, KY, MI, MN, MO, OH, and WI. (Hearing sites: Chicago, IL or Wasington, DC.)

MC 107012 (Sub-398F), filed July 27, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Transporting *air purifiers,* from the facilities of Rush-Hampton Industries located at or near Longwood, FL to points in the United States (except AK and HI). (Hearing sites: Jacksonville, FL or Washington, DC.)

MC 107012 (Sub-399F), filed July 27, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford, P.O. Box 988, Fort Wayne, IN 46801. Transporting: (1) (a) *appliances* and (b) *parts* for applicances, and (2) *materials, supplies, and equipment* used in the distribution or repair of applicances, from Clearfield, UT to points in OR, WA, NV and CA. (Hearing sites: Salt Lake City, UT or Washington, DC.)

MC 109533 (Sub-115F), filed July 20, 1979. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1000 Semmes Avenue, Richmond, VA 23224. Representative: C. H. Swanson, P.O. Box 1216, Richmond, VA 23209. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving St. Peters, MO as an off-route

point in connection with carrier's authorized regular-route operations. (Hearing site St. Louis, MO or Washington, DC.)

MC 109533 (Sub-116F), filed July 20, 1979. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1000 Semmes Avenue, Richmond, VA 23224. Representative: John C. Burton, JR., 1000 Semmes Avenue, Richmond, VA 23224. Authority sought to operate as a *common carrier* 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 the facilities of Old Dominion Beef, Inc., at or near Jarratt, VA, as an off-route point in connection with carrier's authorized regular-route authority. (Hearing site Richmond, VA or Washington, DC.)

MC 111812 (Sub-No. 662F), filed July 23, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls, SD 57101. Transporting *confectionery*, from the facilities of Switzer Candy Co., Division of Beatrice Foods, Inc., at or near St. Louis, MO to points in AZ, CA, CO, ID, MT, NV, OR, UT, and WA. Restricted to the transportation of traffic originating at the named origin and destined to the indicated named destinations. (Hearing site: St. Louis, MO.)

MC 111812 (Sub-669F), filed July 16, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks, P.O. Box 1233, Sioux Falls, SD 57101. Transporting *Epoxy coating, epoxy mortar systems and paint, NOI*, from Hawthorne, CA to points in GA, IN, MI, NJ, OH and PA; restricted to the transportation of traffic originating at the facilities of CON/CHEM at Hawthorne, CA. (Hearing site: Los Angeles, CA.)

MC 111812 (Sub-670F), filed July 16, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls, SD 57101. Transporting *meat, packing-house products, and commodities used by packing houses*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), (1) from the facilities of Armour & Co. at or near (1) Pittsburgh, PA to points in CT, MA, ME, MD, NH, NJ, NY, VT, KY, VA, WV, OH and DC, and (2) Louisville, KY to points in the United States (except AK, KY AND HI) restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated named destinations. (Hearing site: Phoenix, AZ.)

MC 111812 (Sub-671F), filed July 16, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls, SD 57101. Transporting *bakery products* and *packing supplies*, from the facilities of McGlynn Bakeries, Inc. at or near Eden Prairie, MN to St. Louis, MO. (Hearing site: Minneapolis, MN.)

MC 113843 (Sub-264F), filed July 23, 1979. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils, 316 Summer Street, Boston, MA 02210. Transporting *clothing, clothing accessories, and display fixtures* from points in MA, to points in IL, IN, KS, MI, MN, MO and OH. Restricted to the transportation traffic originating at the facilities used by and divisions of Melville Corporation. (Hearing site: Boston, MA.)

Note.—If a hearing is deemed necessary, the Applicant requests that it be held at Boston, MA.

MC 113843 (Sub-265F), filed July 23, 1979. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils, 316 Summer Street, Boston, MA 02210. Transporting *frozen foods* from the facilities of Campbell Soup Company, Inc. at or near (a) Salisbury and Pocomoke City, MD, (b) Clayton and Milford, DE, (c) Downingtown and Philadelphia, PA and (d) Camden, NJ to points in IL, MI, OH, KY, WV, VA, PA, NY, NJ, CT, RI, VT, ME, MA, NH, NE, TX, AR, SC, and GA.

Note.—If a hearing is deemed necessary, the Applicant requests hearing site at Washington, DC, or Philadelphia, PA.

MC 115793 (Sub- 29F), filed July 23, 1979. Applicant: CALDWELL FREIGHT LINES, INC., P.O. Box 620, Lenoir, NC 28645. Representative: C. Douglas Woods (same as above). Transporting (1) *new furniture and new furniture parts* and (2) *materials and supplies* used in the manufacturing of furniture (except commodities in bulk) from points in KY to points in NC. (Hearing site: Charlotte or Hickory, NC)

MC 116763 (Sub-567F), filed July 16, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Representative: H. M. Richters, North West Street, Versailles, Ohio 45380. *Transporting such commodities as are dealt in and/or used by the processors, millers, packagers or manufacturers animal and pet foods and foodstuffs* (except commodities in bulk, in tank vehicles), between 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 Carnation Company. (Hearing site: Los Angeles, CA.)

MC 123023 (Sub-13F), filed July 20, 1979. Applicant: DiPIETRO TRUCKING COMPANY, a corporation, 2201 Sixth Avenue South, Seattle, WA 98134. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. Transporting *bananas* and *agricultural commodities* otherwise exempt from regulation under 49 USC § 10526(a)(6) when transported in mixed loads with bananas from Port Hueneme, CA to points in WA, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Seattle, Washington or, Los Angeles or San Francisco, CA.)

MC 123993 (Sub-47F). Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA, 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX, 18701. Transporting *poultry and animal feed and supplements for poultry and animal feed* (except in bulk) from the facilities of Mountaire Feeds, Inc. at North Little Rock, AR to points in FL. (Hearing site requested: New Orleans, LA or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 124692 (Sub-300F), filed July 16, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas, P.O. Box 4347, Missoula, MT 59806. Transporting *lumber and wood products*, from points in MN; to points in AZ, CA, CO, ID, MT, NE, NV, ND, OR, SD, UT, WA, and WY. (Hearing site: Minneapolis, MN.)

MC 126822 (Sub-63F), filed July 20, 1979. Applicant: WESTPORT TRUCKING COMPANY, a corporation, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith, 15580 South 169 Highway, Olathe, KS 66061. Transporting *(a) welders, welder parts and systems, and welding compounds; (b) materials and supplies used in the manufacture and distribution of the commodities in (a) above (except commodities in bulk and those articles because of size and weight require special equipment)*

between the facilities of Stoody Company and Stoody International Company, at or near the City of Industry and Santa Fe Springs, CA on the one hand and on the other, points in AZ, NM, TX, CO, KS, OK, MO, AR, LA, MS, AL, GA, FL, SC, NC, TN, KY, OH, PA, WV, VA, MD, NJ, NY, CT, MA, VT, NH, DE, UT, MN, NE, RI, ME, IN, IL, WI, ND, SD, MI, and IA. (Hearing site: Los Angeles, CA.)

MC 126893 (Sub-5F), filed July 16, 1979. Applicant: BALTIMORE-WASHINGTON EXPRESS SERVICE, INC., P.O. Box 4333, Baltimore, MD 21223. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission and those requiring special equipment), in vehicles equipped with mechanical refrigeration, between the facilities of Baltimore Shippers and Receivers Association, Inc. at Baltimore, MD, on the one hand, and, on the other, points in NC, SC, GA, and FL. (Hearing site: Baltimore, MD.)

MC 127303 (Sub-67F), filed July 27, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *non-alcoholic beverages,* from Omaha, NE and Granite City, IL to points in MN, WI, ND, and SD. (Hearing site: Washington, DC.)

MC 127602 (Sub-23F), filed July 23, 1979. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., P.O. Box 996, Denver, CO 80201. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over regular routes transporting *general commodities* (except articles 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 Kansas City, KS and Denver, CO over Interstate Hwy 70, serving no intermediate points, return over the same route; (2) between Chicago, IL commercial zone and Kansas City, KS from Chicago, IL over Interstate Hwy 55, to junction U.S. Hwy 36 at Springfield, MO, then east over U.S. Hwy 36 to junction Interstate Hwy 35 at Cameron, MO, then south on Interstate Hwy 35 to Kansas City, KS, serving no intermediate points and return over the same route; (3) between St. Paul, MN and Kansas City, KS, over Interstate Highway 35 serving no intermediate points; (4) between Chicago, IL and St. Paul, MN from Chicago, IL over Interstate Hwy 90 to junction Interstate Hwy 94 at Rockford, IL, then over Interstate Highway 94 to St. Paul, MN, serving no intermediate points and return over the same route. (Hearing: Denver, CO.)

MC 129032 (Sub-96F), filed July 27, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). Transporting: *K. D. aluminum extrusions, and glazed windows* from the facilities of General Aluminum Corporation at or near Dallas, TX to CA, ID, OR, WA, NV, and UT, restricted to the transportation of traffic originating at or destined to the above named origin and destined to the indicated destination. (Hearing site: Salt Lake City, UT or San Francisco, CA.)

MC 138762 (Sub-38F), filed July 23, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada, T2P 2P9. Representative: Richard H. Streeter, Wheeler & Wheeler, 1729 H Street, NW., Washington, DC 20006. Authority sought to operate as a *common carrier,* by motor vehicle, in foreign commerce only over irregular routes, transporting *choline chloride and trimethylamine* in bulk, in tank vehicles from ports of entry on the Canadian international boundry line between the U.S. and Canada in MI to points in MD, TX, NC, SC, GA, AL, and LA.

MC 138762 (Sub-45F), filed July 27, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada, T2P 2P9. Representative: Richard H. Streeter, Wheeler and Wheeler, 1729 H Street, NW, Washington, DC 20006. Authority sought To operate as a common carrier, by motor vehicle, in foreign commerce only over irregular routes, transporting *lime and lime products,* in bulk, in tank vehicles, from ports of entry on the International boundary Line between US and Canada located in MI and NY to Cleveland, OH and Aliquippa and Pittsburgh, PA. (Hearing site: Buffalo, NY or Washington, DC.)

MC 138932 (Sub-1F), filed July 20, 1979. Applicant: MILLER TRANSPORTATION, INC., Post Office Box 344, Liberty Center, OH 43532. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. 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 Gate Nos. 4 and 5, Ohio Turnpike (I–80 and I–90) near Toledo, OH on the one hand, and, on the other, points in OH; serving restricted (1) to service at said gates for the purpose of interchange of traffic only and (1) (2) restricted against the transportation of traffic originating at or destined to Toledo, OH and points in its commercial zone, and (2) the authority granted shall not be severable by sale or otherwise from carrier's authority in Certificate of Registration No. MC 138932. (Hearing site: Cleveland, OH or Washington, DC.)

MC 139023 (Sub-11F), filed July 20, 1979. Applicant: 2–G TRANSPORTATION, INC., 12589 Rhode Island Avenue South, Savage, MN 55378. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Transporting: *beverages,* from Minneapolis, MN to points in IL and WI. (Hearing site: St. Paul, MN.)

MC 139083 (Sub-8F), filed July 27, 1979. Applicant: BUILDING SYSTEMS TRANSPORTING, INC., P.O. Box 142, Washington Court House, OH 43160. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. Transporting: (A) (1) *buildings, complete, knocked down,* or in sections, (2) *building sections and building panels,* (3) *parts and accessories* used in the installation and completion of commodities in (1) and (2) above, and (4) *metal prefabricated structural components and panels and accessories* used in the installation and completion of such commodities from the facilities of Armco, Fayette County, OH, to points in SC, GA, FL, AL, MS, LA, AR, TX, MO, IA, MN, DE, and NJ, and (B) iron and steel articles, from the facilities of Armco, Ashland, KY, to points in IN, IL, MI, and TX. (Hearing site: Columbus, OH).

MC 139482 (Sub-139F), filed July 27, 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. Transporting such commodities as are dealt in by retail and wholesale department merchandise houses and specialty shops, between New York, NY and North Bergan, NJ on the one hand, and, on the other, Dallas, TX. (Hearing site: Dallas, TX.)

MC 139663 (Sub-8F), filed July 16, 1979. Applicant: HASKINS & SON, INC., 815 Max Avenue, Lansing, MI 48915. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Transporting sand, in bulk, from points in LaSalle County, IL and Berrien County, MI, to points in AL, AR, CT, DE,

FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI. (Hearing sites: Detroit, MI or Chicago, IL.)

MC 140563 (Sub-40F), filed July 20, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *malt beverages,* in containers, from the facilities of Miller Brewing Company at or near Albany, GA, to those points in the United States in and east of WI, IL, MO, OK, and TX (except points in CT, ME, MA, NH, RI and VT), and (2) *materials, equipment and supplies* used in the manufacture and distribution of malt beverages (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 141443 (Sub-23F), filed July 20, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting: *printed matter, paper* and *paper articles, plastic articles, games, toys, puzzles, writing slates, crayons, pencils, store display racks, paints, brushes, adhesive, telescopes, microscopes,* and *such commodities as are dealt in or used by motels* from Coffeyville, KS to points in AZ, AR, CA, CO, ID, LA, MO, MT, NV, NM, OK, OR, TX, UT, WA and WY. (Hearing site: (1) Tulsa, OK (2) Oklahoma City, OK.)

Note.—Dual operations may be involved.

MC 141443 (Sub-25F), filed July 23, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: William Cruikshank (same address as applicant). Transporting: (1) *canned goods and pet food,* from points in CA to points in AR, CO, KS, LA, MO, NM, OK (except Oklahoma City), OR, TX, and WA. (Hearing site: (1) Los Angeles, CA (2) San Francisco, CA.)

Note.—Dual operations may be involved.

MC 141443 (Sub-26F), filed July 20, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting: *frozen foods,* from Chickasha, OK to points in AR, CA, CO, ID, IA, KS, MO, MT, NE, NV, NM, OR, TX, UT, WA, and WY. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 141443 (Sub-29F), filed July 20, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting: *charcoal briquettes, fireplace logs and hickory chips,* from Springfield, OR to points in AZ, CA, CO, ID, MT, NV, NM, UT, WA, and WY. (Hearing site: Louisville, KY.)

Note.—Dual operations may be involved.

MC 142743 (Sub-16F), filed July 20, 1979. Applicant: EAST FREIGHT SYSTEMS, INC., P.O. Box 132 C, Tupelo, MI 38801. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *clay and clay products* from points in Hardeman County, TN to those points in the US in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: Washington, DC; Atlanta, GA; or Chicago, IL.)

MC 143812 (Sub-14F), filed July 23, 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. Transporting: *denatured alcohol,* in bulk, from Bellingham, WA, to Montebello and Watsonville, CA. (Hearing site: Los Angeles, CA.)

MC 144622 (Sub-85F), filed July 16, 1979. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Bob Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting: *such merchandise as sold by dealt in wholesale, retail and discount stores (except commodities in bulk and those which because of size or weight require the use of special equipment),* between the facilities of Gibson's Inc. located at or near Dallas, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington.)

Note.—Dual operations may be involved.

MC 144682 (Sub-21F), filed July 17, 1979. Applicant: R. R. STANLEY, An Individual, 1738 Empire Central, Dallas, TX, 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting: *meats, 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),* from New York, NY, Philadelphia, PA, Charleston, SC, Miami, FL, Tampa, FL, New Orleans, LA, Houston, TX, Chicago, IL, Dubuque, IA, Davenport, IA, Cedar Rapids, IA, Omaha, NE, Sioux City, IA, Sioux Falls, SD, Worthington, MN, Green Bay, WI Kansas City, KS, Wichita, KS, Oklahoma City, OK, Boise, ID, Denver, CO, Greeley, CO, Colorado Springs, CO, Pueblo, CO, Amarillo, TX, Springfield, MO, Seattle, WA, Tacoma, WA, Walla Walla, WA, Eureka, CA, Sacramento, CA, San Francisco, CA, Stockton, CA, Los Angeles, CA, to points in the U.S. (except AK and HI). (Hearing site: Dallas, TX.)

MC 145102 (Sub-37F), filed July 27, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Transporting *printed matter* from the facilities of Wisconsin Cuneo Press, Inc. at Milwaukee, WI to those points in the US in and west of MN, IA, MO, AR, and LA (except AK and HI) restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Madison, WI and Milwaukee, WI.)

MC 145782 (Sub-2F), filed July 20, 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. Transporting *new furniture, furnishings,* and *accessories,* from Dallas, TX to points in OK, AR, and LA. (Hearing site: Dallas, TX.)

MC 146073 (Sub-2F), filed July 20, 1979. Applicant: CANYON DISTRIBUTORS, LTD., Alberta, Canada. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. To operate as a common carrier by motor vehicle, in foreign commerce only, transporting *meats, meat products, and meat by products, and articles distributed by meat-packing houses,* between ports of entry on the international boundary line between US and Canada in ND, MN, NY, and MI, on the one hand, and, on the other, points in OH, NY, MI, NJ, and PA. (Hearing site: Seattle, WA.)

MC 147093 (Sub-2F), filed July 27, 1979. Applicant: B & L TRUCK LINE, INC., P.O. Box 626, Memphis, TN 38101. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, Tennessee 38103. Transporting clay, in bags from the facilities of Maltan, Inc. at or near Middleton, TN to points in MO, TN, MS, AR, AL, TX, KY, LA, FL, IN, IL, OK, CO, MI, WI, MN, GA, NC, VA, WV, PA, MD, NY, and MA. (Hearing site: Memphis, TN.)

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Decided: January 22, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 200 (Sub-371F), filed July 24, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: H. Lynn Davis (same address as applicant). 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 Henryetta, OK, as an intermediate point on applicant's existing service route 26 between Sapulpa, OK, and Junction U.S. Hwys 75 and 270. (Hearing site: Kansas City, MO.)

MC 200 (Sub-372F), filed July 24, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: H. Lynn Davis (same address as applicant). Transporting *plastic containers* from Middletown, DE, to Union, MO. (Hearing site: Kansas City, MO.)

MC 200 (Sub-377F), filed July 27, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: H. Lynn Davis (same address as applicant). Transporting *aluminum ingots, slabs, coil, and flat sheets,* from the facilities of Revere Copper & Brass, Inc., at or near Omal, OH, on the one hand, and, on the other, points in AR, IA, IL, IN, KS, MI, MO, NE, OH, OK, TX, and WI, restricted to the transportation of shipments originating at the named origin facilities and destined to the named destination points. (Hearing site: Kansas City, MO.)

MC 200 (Sub-379F), filed July 27, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: H. Lynn Davis. Transporting *meats, meat products, and meat by-products, and articles distributed by meat-packing houses,* as described in Section A & 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 Dugdale Packing Co. at Cozad, NE to points in AL, AR, CO, CT, DC, DE, FL, GA, IA, IL, IN, KS, KY, LA, MD, MA, MI, MO, MS, NC, NJ, NY, OH, OK, PA, RI, SC, TX, VA, and WV, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 531 (Sub-416F), filed July 23, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *industrial washing compounds* and *liquid chemicals,* in bulk, in tank vehicles, from Calvert City, NY, to points in CA and UT. (Hearing site: Louisville, KY, or St. Louis, MO.)

MC 730 (Sub-457F), filed July 27, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 No. Via Monte, Walnut Creek, CA 94596. Representative: E. E. Reddick (same address as applicant). Transporting *meats, meat products, meat by-products,* and *articles* distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209, 766 (except hides and skins and commodities in bulk) between the facilities of John Morrell and Company located at or near Esterville and Sioux City, IA, Sioux Falls, SD, and Worthington, MN, on the one hand, and, on the other, points in AL, FL, GA, KY, LA, MS, NC, SC, TN, TX, VA, and WV. (Hearing site: Des Moines, IA, or San Francisco, CA.)

MC 4941 (Sub-56F), filed July 24, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). Transporting *wooden kitchen cabinets,* from the facilities of International Paper Company at Austintown, OH to points in CT, DE, ME, MD, MA, NH, NY, PA, RI, VA, VT, WV and DC. (Hearing site: New York, NY, or Boston, MA.)

MC 4941 (Sub-57F), filed July 24, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). Transporting *paper, paper products, dispenser boxes, and materials, equipment and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which because of size and weight, require the use of special equipment), between the facilities of Georgia-Pacific Corporation, at points in IL, IN, IA, ME, MI, MO, NY, OH, PA, VT and WI, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Boston, MA.)

MC 4941 (Sub-59F), filed July 24, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello St., Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). Transporting *wollastonite* (except in bulk), from the facilities of Interplace Corporation, at Willsboro, NY, to points in IL and OH. (Hearing site: Boston, MA.)

MC 17000 (Sub-21F), filed July 23, 1979. Applicant: HOHENWALD TRUCK LINES, INC., P.O. Box 196, Hohenwald, TN 38462. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. Transporting (1) *fans* and *heaters,* and (2) *commodities* used in the manufacture and distribution of fans and heaters (except commodities in bulk in tank vehicles), between Franklin, TN, on the one hand, and, on the other, points in IL, IN, KS, MI, OH, OK, TX and WI, restricted to the transportation of traffic originating at or destined to the facilities of Laski Metal Products, Inc. (Hearing site: Washington, DC, or Nashville, TN.)

MC 17000 (Sub-22F), filed July 22, 1979. Applicant: HOHENWALD TRUCK LINES, INC., P.O. Box 196, Hohenwald, TN 38462. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (A) *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and commodities requiring special equipment) (1) between Linden, TN and Memphis, TN, from Linden over TN Hwy 20 to junction with Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route, serving no intermediate points. (2) between Buffalo, TN and Memphis, TN, over I–40, serving no intermediate points, restricted in (1) and (2) above, against the transportation of shipments originating at, destined to, or interchanged at Nashville and Linden, TN and their respective commercial zones. (3) between Hohenwald, TN and Linden, TN, from Hohenwald over TN Hwy 48 to junction TN Hwy 13, then over TN Hwy 13 to Linden and return over the same route, serving all intermediate points. (4) between Lobelville, TN and Buffalo, TN, over TN Hwy 13, serving all intermediate points. (5) serving Arrington, TN and points within 8 miles of Arrington, TN, as intermediate or off routes points in conjunction with carrier's regular route operations. (6) between Franklin, TN, Buffalo, TN, from Franklin over TN Hwy 96 to junction with Interstate Hwy 40, then over Interstate Hwy 40 to Buffalo

and return over the same route. (7) between Franklin, TN and Hohenwald, TN from Franklin over U.S. Hwy 31 to junction with TN Hwy 99, then over TN Hwy 99 to Hohenwald and return over the same route, (B) *Hose and materials and supplies* used in the manufacture of hose, between Summertown and Lawrenceburg, TN, from Summertown over TN Hwy 20 to junction U.S. Hwy 43, then over U.S. Hwy 43 to Lawrenceburg, and return over the same route, serving no intermediate points, restricted to the transportation of traffic originating at or destined to the facilities of American Biltrite Rubber Co., Inc., at or near Lawrenceburg, TN. (Hearing site: Nashville, TN.)

Note.—The purpose of this application is to convert existing Certificates of Registration to Certificates of Public Convenience and Necessity.

MC 21060 (Sub-22F), filed July 20, 1979. Applicant: IOWA PARCEL SERVICE, INC., 3123 Delaware, Des Moines, IA 50313. Representative: Harold W. Sternberg (same address as applicant). 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 Sioux Falls, SD and points in IA, restricted to the transportation of shipments weighing 200 pounds or less and no service shall be performed in the transportation of parcels, packages and articles weighing in the aggregate more than 750 pounds from one consignor at one location to one consignee at one location on any one day. (Hearing site: Sioux Falls, SD.)

MC 22311 (Sub-20F), filed July 26, 1979. Applicant: A. LINE, INC., P.O. BOX 765, Hammond, IN 46325. Representative: Marvin J. Mickow (same address as applicant). Transporting *precast concrete beams, roof decks, joints, crypts, and panels* (1) from Oshkosh, WI, to points in IN, IL, IA, KY, MI, MO, MN, ND, OH, PA, SD, TN, and WV; (2) from Bluffton, OH, to points in IN, IL, KY, MI, PA, TN, and WV; (3) from St. Louis, MO, to points in IL, IA, LA, MS, TN, TX and KY, restricted to shipments originating at the facilities of Duwe Precast Concrete Products, Inc., and Duew Mausoleum Sales Corporation. (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 24060 (Sub-3F), filed July 23, 1979. Applicant: HARRY MAHALLY, JR., d.b.a. MAHALLY TRUCKING SERVICE, P.O. Box 1294, Wilkes-Barre, PA 18703. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting *aluminum shell parts, bases, booms, and fins,* between Forty Fort, PA, and New Bedford MA, restricted to the transportation of traffic originating at or destined to the facilities of Kanarr Processing Specialties, at Forty Fort, PA. (Hearing site: Harrisburg, PA.)

MC 29910 (Sub-223F), filed July 23, 1979. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Transporting (1) *new furniture,* from Fort Smith, AR to points in the United States (except AK and HI), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Little Rock, AR, or Dallas, TX.)

Note.—Applicant intends to tack this authority with its existing authority.

MC 46421 (Sub-15F), filed July 30, 1979. Applicant: ESCRO TRANSPORT LTD., 275 Mayville Avenue, Buffalo, NY 14217. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. Transporting foodstuffs, in vehicles equipped with mechanical refrigeration, between Buffalo, NY, and points in Onondaga County, NY, on the one hand, and, on the other, points in NY. (Hearing site: Buffalo, NY.)

MC 47171 (Sub-132F), filed July 23, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant.) Transporting (1) *malt beverages,* Albany, GA, to points in AL, FL, MS, NC, LA, SC, TN, and VA. (2) *materials, equipment and supplies* used in the manufacture of malt beverages, in the reverse direction. (Hearing site: Atanta, GA.)

MC 47171 (Sub-134F), filed July 20, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant.) Transporting (1) *textiles and textile products,* from (a) points in Union County, SC, to points in NH, NY, those in PA on and west of the Susquehanna River, and those in CT on and east of the Connecticut River, and (b) Manchester, GA, to points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA, and DC, and (2) *floor coverings, and equipment and supplies* used in the installation, manufacture, and sale of floor coverings, from LaGrange, GA, to points in CT, DE, MD, MA, NH, NJ, NY, PA, VA, and DC. (Hearing site: Columbia, SC.)

MC 52460 (Sub-253F), filed July 23, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615–East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *residual fuel oil,* from Hosston, LA, to El Dorado, KS, and Port of Catoosa, OK. (Hearing site: Dallas, TX.)

MC 52580 (Sub-6F), filed July 23, 1979. Applicant: COLUMBIAN STORAGE & TRANSFER CO., a corporation, 900 Hall St., S.W., Grand Rapids, MI 49502. Representative: Ronald W. Malin, Bankers Trust Bldg., Jamestown, NY 14701. Transporting *general commodities (except classes A and B explosives, automobiles, trucks, cabs, chassis and buses, household goods as defined by the Commission and commodities in bulk),* from Grand Rapids, MI to Detroit, MI. (Hearing site: Grand Rapids, MI.)

MC 59150 (Sub-160F), filed July 23, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting *composition board,* from the facilities of Champion International Corporation, at or near (a) Catawba, SC, (b) South Boston, VA, and (c) Oxford, MS, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, VA, WV, and TN. (Hearing site: Jacksonville, FL.)

MC 59720 (Sub-9F), filed July 23, 1979. Applicant: KENMORE TRANSPORTATION CO., a corporation, 22 Eskow Road, Worcester, MA 01604. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *such commodities as are dealt in or used by manufacturers and distributors of containers* (except commodities in bulk), between points in MA, CT, RI, NY, NJ, DE, PA, OH, VA, WV, MD, NC, SC, GA, FL, IL, IN, KY, ME, MI, MO, NH, TN, VT, and WI, restricted to traffic moving from or to facilities of The Continental Group, Inc. (Hearing site: New York, NY, or Washington, DC.)

MC 62110 (Sub-17F), filed July 2, 1979. Applicant: BILLINGS TRUCKING CORP., P.O. Box 1106, 509 Cherry St., North Wilkesboro, NC 28659. Representative: Edward L. Clifton (same address as applicant). Transporting *wire products,* and *materials* and *supplies* used in the manufacture of wire products, from the facilities of Adcom Wire Company, at Jacksonville, FL, to points in GA, NC, and SC. (Hearing site: North Wilkesboro, NC.)

MC 67450 (Sub-95F), filed July 20, 1979. Applicant: PETERLIN CARTAGE

CO, a corporation, 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *foodstuffs,* (except frozen), (1) from the facilities of Vlasic Foods, Inc., at or near (a) Bridgeport, Imlay City and Memphis, MI, to points in IL, IN, NY, OH, PA, and WV, (b) Greenville, MS, to points in IL, IN, KS, KY, MO, OH, TN, and TX, (c) Millsboro, DE, to points in NY, PA, and WV, and (2) between the facilities of Vlasic Foods, Inc., at or near Bridgeport, Imlay City and Memphis, MI, on the one hand, and, on the other Greenville, MS and Millsboro, DE. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 67500 (Sub-7F), filed July 25, 1979. Applicant: BLUE RIDGE TRUCKING CO., INC., Sweeten Creek Rd., P.O. Box 5118, Asheville, NC 28803. Representative: Jones P. Byrd, P.O. Box 7625, Asheville, NC 28807. 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 the use of special equipment), between points in Buncombe County, NC, and points in Madison, Yancey, Mitchell, Avery, Watagua, Ashe, Wilkes, Iredell, Caldwell, Burke, McDowell, Rutherford, Catawba, Polk, Lincoln, Allegheny, and Alexander Counties, NC. (Hearing site: Asheville or Boone, NC.)

MC 68860 (Sub-41F), filed July 26, 1979. Applicant: RUSSELL TRANSFER, INC., 5259 Aviation Dr., N.W., Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (same address as applicant). Transporting (1) *malt beverages* from albany, GA, to points in AL, FL, KY, LA, MS, and TN, and (2) *materials, supplies, and equipment* used in the manufacture and distribution of malt beverages (except commodities in bulk, in tank vehicles, and those requiring the use of special equipment), from points in AL, FL, KY, LA, MO, GA, MS, NC, OK, PA, SC, TN, TX, VA, and WV, to Albany, GA. (Hearing site: Washington, DC, or Albany, GA.)

MC 75320 (Sub-218F), filed, July 24, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Applicant's Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205.Transporting *general commodies* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the facilities of Alcan Aluminum Corporation, at or near Bay St. Louis, MS, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Jackson, MS.)

MC 82841 (Sub-266F), filed July 19, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" St., Omaha, NE 68127 Representative: Donald L. Stern, 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Transporting *materials, equipment, and supplies* used in the manufacture of retail store fixtures (except commodities in bulk), (1) between Omaha, NE and Scottsboro, AL, (2) from points in MN, MO, IL, LA, and MI, to Omaha, NE, and (3) from points in OH and GA, to Scottsboro, AL, restricted to the transportation of traffic originating at and destined to the facilities of Lozier Store Fixtures. (Hearing site: Omaha, NE.)

Note:—Dual operations may be involved.

MC 84801 (Sub-1F), filed July 20, 1979. Applicant: NEAL R. WENTLING AND DOROTHY E. WENTLING, a partnership, d.b.a. LEAMAN TRUCKING CO., 125 East Cumberland St., Lebanon, PA 17042. Representative: Neal R. Wentling (same address as applicant). Transporting *manufactured and fabricated iron and steel articles,* from Baltimore, MD, Washington, DC, New York, NY, and those points in NJ north of the northern boundaries of Burlington and Monmouth Counties, NJ, to points in Lebanon County, PA. (Hearing site: Harrisburg, or Philadelphia, PA.)

MC 94201 (Sub-176F), filed July 24, 1979. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW., Washington, DC 20036. 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 Knoxville, TN, and Erie, PA, from Knoxville over Interstate Hwy. 81 to junction Interstate Hwy. 77, near Wytheville, VA, then over Interstate Hwy. 77 to junction U.S. Hwy. 19, near Camp Creek, WV, then over U.S. Hwy. 19 to junction Interstate Hwy. 79, near Canfield, WV, then over Interstate Hwy. 79 to Erie, and return over the same route; (2) between Knoxville, TN, and Athens, PA, from Knoxville over Interstate Hwy. 81 to junction U.S. Hwy. 220, near Daleville, VA, then over U.S. Hwy. 220 to Athens, and return over the same route; (3) between Knoxville, TN, and the PA–NY State Line, over Interstate Hwy. 81; (4) between Charlotte, NC, and Erie, PA, from Charlotte over Interstate Hwy. 77 to junction U.S. Hwy. 19, near Camp Creek, WV, then over U.S. Hwy. 19 to junction Interstate Hwy. 79, near Canfield, WV, then over Interstate Hwy. 79 to Erie, and return over the same route; (5) between Charlotte, NC, and junction Interstate Hwy. 81 and Interstate Hwy. 77, near Wytheville, VA, over Interstate Hwy. 77, serving the named junction for purposes of joinder only; (6) between Greensboro, NC, and Athens, PA, over U.S. Hwy. 220; (7) between Greensboro, NC, and junction U.S. Hwy. 220 and Interstate Hwy. 81, near Daleville, VA, over U.S. Hwy. 220, serving named junction, for purposes of joinder only; (8) between Greensboro, NC, and Charlottesville, VA, over U.S. Hwy. 29; (9) between Charlottesville, VA, and Lawrenceville, PA, from Charlottesville over U.S. Hwy. 29 to junction U.S. Hwy. 15, near New Baltimore, VA, then over U.S. Hwy. 15 to Lawrenceville, and return over the same route; (10) between Columbus, OH, and Philadelphia, PA, from Columbus over Interstate Hwy. 70 to junction Interstate Hwy. 76, near Youngwood, PA, then over Interstate Hwy. 76 to Philadelphia, and return over the same route; (11) from Columbus over U.S. Hwy. 40 to junction U.S. Hwy. 22, at Zanesville, OH, then over U.S. Hwy. 22 to Pittsburgh, and return over the same route; (12) between Columbus, OH, and Erie, PA, from Columbus over Interstate Hwy. 71 to junction Interstate Hwy. 90, at or near Cleveland, OH, then over Interstate Hwy. 90 to junction Interstate Hwy. 79, then over Interstate Hwy. 79 to Erie, and return over the same route. Service at Columbus, OH, in connection with Routes 10, 11 and 12, is authorized as a point of joinder only; (13) between Akron, OH, and Philadelphia, PA, over Interstate Hwy. 76; (14) between Akron, OH, and the PA–NJ State Line, from Akron over Interstate Hwy. 76 to junction Interstate Hwy. 80, near Youngstown, OH, then over Interstate Hwy. 80 to the PA–NJ State Line, and return over the same route; (15) between Akron, OH, and New Castle, PA, from Akron over Interstate Hwy. 76 to Youngstown, OH, then over U.S. Hwy. 422 to New Castle, and return over the same route; (16) between Cleveland, OH, and Matamoras, PA, over U.S. Hwy. 6. Service at Akron and Cleveland, OH, in connection with Routes 13, 14, 15 and 16, is authorized as a point of joinder only; (17) between Baltimore, MD, and Harrisburg, PA, over Interstate Hwy. 83; (18) between Baltimore, MD

and Matamoras, PA, from Baltimore over Interstate Hwy. 83 to York, PA, then over U.S. Hwy. 30 to Lancaster, PA, then over U.S. Hwy. 222 to Allentown, PA, then over U.S. Hwy. 22 to junction Pennsylvania Hwy. 33, near Wilson, PA, then over Pennsylvania Hwy. 33 to junction U.S. Hwy. 209, near Stroudsburg, PA, then over U.S. Hwy. 209 to Matamoras, and return over the same route; (19) between Baltimore, MD, and Lancaster, PA, from Baltimore over U.S. Hwy. 1 to junction U.S. Hwy. 222, near Conowingo, MD, then over U.S. Hwy. 222 to Lancaster, and return over the same route; (20) between Baltimore, MD, and Allentown, PA, from Baltimore over U.S. Hwy. 1 to junction Pennsylvania Hwy. 100, near Hamorton, PA, then over Pennsylvania Hwy. 100 to junction Pennsylvania Hwy. 29, near Hereford, PA, then over Pennsylvania Hwy. 29 to Allentown, and return over the same rout. Service at Baltimore, MD, in connection with Routes 17, 18, 19 and 20, is authorized as a point of joinder only; (21) between Philadelphia, PA, and Harrisburg, PA, from Philadelphia over U.S. Hwy. 30 to Lancaster, PA, then over Pennsylvania Hwy. 283 to Harrisburg, and return over the same route; (22) between Philadelphia, PA, and Pittsburgh, PA, over U.S. Hwy. 30; (23) between Philadelphia, PA, and Sunbury, PA, from Philadelphia over U.S. Hwy. 422 to Reading, PA, then over Pennsylvania Hwy. 61 to Sunbury, and return over the same route; (24) between Philadelphia, PA, and Scranton, PA, (a) over Pennsylvania Hwy. 9, (b) from Philadelphia over Pennsylvania Hwy. 611 to junction Interstate Hwy. 380, near Tobyhanna, PA, then over Interstate Hwy. 380 to Scranton, and return over the same route; (25) between Philadelphia, PA, and Allentown, PA, over Pennsylvania Hwy. 309. Service at Philadelphia, PA, in connection with Routes 21, 22, 23, 24 and 25, is authorized as a point of joinder only; (26) between New Castle, PA, and Harrisburg, PA, from New Castle over U.S. Hwy. 422 to junction U.S. Hwy. 22, near Ebensburg, PA, then over U.S. Hwy. 22 to Harrisburg, and return over the same route; (27) between Pittsburgh, PA, and Harrisburg, PA, over U.S. Hwy. 22; (28) between Union, PA, and Bradford, PA, from Uniontown over U.S. Hwy. 119 to junction U.S. Hwy. 219, at or near Du Bois, then over U.S. Hwy. 219 to Bradford, and return over the same route; (29) between Pittsburgh, PA, and junction PA Hwy. 55 and U.S. Hwy. 220 near Cessna, PA, over Pennsylvania Hwy. 56; (30) between Harrisburg, PA, and Reading, PA, over U.S. Hwy. 422; (31) between Harrisburg, PA, and Meadville, PA over U.S. Hwy. 322; (32) between Harrisburg, PA, and Scranton, PA, over U.S. Hwy. 11. Service in connection with all of the above described routes is authorized to and from all intermediate points and all off-route points in Pennsylvania. (Hearing site: Harrisburg, PA or Washington, DC.)

MC 101280 (Sub-12 F), filed July 23, 1979. Applicant: PARIS TRANSPORT, INC., 500 West Monroe ST., Paris, IL 61944. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *corn and corn products,* from Paris, IL to Louisville, KY, Buffalo and DePew, NY, and points in IA, MN, and MO, restricted to movements originating at the facilities of Illinois Cereal Mills, Inc. at Paris, IL. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 102181 (Sub-9F), filed July 20, 1979. Applicant: O. H. & F., INC., Post Office Box 129, Grayville, IL 62844. Representative: William P. Whitney, Jr., 708 McClure Building, Frankfort, KY 40601. Transporting (1) *machinery and equipment* used in, or in connection with, the discovery, development, production, refining, construction, manufacture, repair, processing, storage, transmission, and distribution of coal and its by-products, and (2) *materials and supplies* (not including coal) used in, or in connection with, the discovery, development, production, construction, repair, refining, manufacture, processing, storage, transmission, and distribution of coal and its by-products, restricted to the transportation of shipments of materials and supplies moving to and from exploration, drilling, production, job, construction, plant sites, and storage sites, between all points in the United States (except AK and HI) restricted to traffic moving to or from the facilities of the Amax Coal Co.

MC 106010 (Sub-1F), filed July 18, 1979. Applicant: RAIDERS EXPRESS, INC., 6 Senate Pl, Jersey City, NJ 07306. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *dry phosphates,* in bulk, in tank vehicles, from the facilities of the Monsanto Company located at or near Kearny, NJ, to points in CT, MA, MD, NY, and PA. (Hearing site: St. Louis, MO or Washington, DC.)

MC 109821 (Sub-63F), filed July 19, 1979. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main St., Wellsboro, PA 16901. Representative: Michael R. Werner, 167 Fairfield Rd, P.O. Box 1409, Fairfield, NJ 07006. 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 Macedon and Canadaigua, NY as off-route points in connection with its duly authorized regular route operations. (Hearing site: Rochester, NY.)

MC 109891 (Sub-44F), filed July 18, 1979. Applicant: INFINGER TRANSPORTATION CO., INC., 2811 Carner Ave., P.O. Box 7398, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. Transporting: (1) *paper, paper products and woodpulp* (except in bulk), from the facilities of Bowater Carolina Corporation at or near Catawba, SC, to FL and GA, and (2) material, equipment and supplies used in the manufacture and distribution of paper, paper products and woodpulp (except in bulk), from FL and GA to the facilities of Bowater Carolina Corporation at or near Catawba, SC. (Hearing site: Washington, DC or Columbia, SC.)

MC 110380 (Sub-17F), filed July 19, 1979. Applicant: BERSCHENS OF MADISON, INC., 120 West Verona Ave., Verona, WI 53593. Representative: Rolfe E. Hanson, 121 West Doty St., Madison, WI 53703. Transporting *rough castings* (1) from Madison, WI, to Menomonie, MI, and (2) from Menomonie, MI, to Kaukauna, WI, and Fond du Lac, WI. (Hearing site: Madison or Milwaukee, WI.)

MC 110420 (Sub-836F), filed July 27, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW, Washington, DC 20004. Transporting *liquid chemicals,* in bulk, in tank vehicles, from Linden, NJ to IL, IN, IA, KY, MI, MN, MO, OH and WI. (Hearing site: Washington, DC.)

MC 110841 (Sub-19F), filed July 23, 1979. Applicant: PORT NORRIS EXPRESS CO., INC., 28 South High St., Port Norris, NJ 18349. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. Transporting *silica sand and silica products,* (1) from the facilities of Ottawa Silica Company, at or near (a) North Stonington, CT, (b) Ottawa, Il, and (c) Rockwood, MI, to points in the United States in and east of WI, IL, KY, TN and MS, and (2) from facilities of Whitehead Brothers Company in Plymouth County, MA, to points in NH, VT, NY, CT, RI, PA, NJ, OH, WV, VA, MD, DE, and DC. (Hearing site: Washington, DC.)

MC 111201 (Sub-43F), filed July 22, 1979. Applicant: J. N. ZELLNER & SON

TRANSFER CO., a corporation, P.O. Box 91247, East Point, GA 30364. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *malt beverages* (except in bulk), from the facilities of Miller Brewing Company, at or near Albany, GA, to points in AL, AR, FL, KY, LA, MS, NC, SC, TN, and VA, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 111231 (Sub-280F), filed July 19, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, 140 East Buchanan, Prairie Grove, AR 72753. 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, Class A and B explosives, commodities in bulk and commodities requiring special equipment) serving the facilities of the Owatonna Tool Company at or near Searcy, AR, as an intermediate or off route point in connection with carrier's otherwise authorized regular route operation to and from Little Rock, AR. (Hearing site: Owatonna, MN or Searcy, AR.)

MC 111310 (Sub-50F), filed July 23, 1979. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Transporting (1) *Meats, 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 commodities in bulk), (a) between Norwalk, WI, on the one hand, and, on the other, points in the United States (except AK and HI), and (b) from the facilities of Pine Valley Meats, Inc. at Chicago, IL to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (1), between points in the United States (except AK and HI), on the one hand, and, on the other, Norwalk, WI. (Hearing site: Black River Falls or Madison, WI.)

MC 111401 (Sub-579F), filed July 17, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). Transporting *flour*, in bulk, in tank vehicles, from Enid, OK to Murfreesboro, TN. (Hearing site: Minneapolis, MN or Kansas City, KS.)

MC 111740 (Sub-31F), filed July 20, 1979. Applicant: OIL TRANSPORT CO., a Corporation, P.O. Drawer 2679, Abilene, TX 79604. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. Transporting *sulphur*, in bulk, in tank vehicles, between El Paso, TX, on the one hand, and, on the other, points in NM. (Hearing site: Dallas or Houston, TX.)

MC 115651 (Sub-62F), filed July 26, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., P.O. Box 39, Rockford, IL 61105. Representative: R. D. Higgins (same address as applicant). Transporting *liquified petroleum gas*, (1) from Lemont, IL, to IN, and (2) from Dubuque, IA, to IL, restricted in point of time to a period of five (5) years from the date of the issuance of such authority. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 115730 (Sub-77F), filed July 20, 1979. Applicant: THE MICKOW CORP., P.O. Box 1774, 531 S.W. Sixth St., Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50309. Transporting (1) *iron and steel articles*, and (2) *materials and supplies* used in the manufacture and distribution of iron and steel articles, (a) between Albuquerque, NM, Chicago and Sterling, IL, Omaha, NE, Davenport, IA, Denver, CO, Idaho Falls, Nampa, and Pocatello, ID, St. Paul, MN, Salt Lake City, UT, Tulsa, OK, Portland, OR, and Milwaukee, WI, and (b) between points in (a) above, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Gate City Steel Corporation. (Hearing site: Omaha, NE, or Chicago, IL.)

MC 115840 (Sub-114F), filed: July 26, 1979. Applicant: COLONIAL FAST FREIGHT LINES, INC., 9041 Executive Park Dr., Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Transporting *zinc slabs, dust, oxide, residue, dross and skimmings; lead sheet and metallic cadmium; and materials, equipment and supplies used in the manufacture and distribution of the foregoing commodities*, between Josephtown, PA, on the one hand, and, on the other, points in AL, FL, GA, KY, LA, MS, TN and TX. (Hearing Site: Pittsburgh, PA or Washington, DC.)

MC 116260 (Sub-11F), filed July 29, 1979. Applicant: PASHA TRUCKAWAY, 1308 Canal Blvd., Richmond, CA 94084. Representative: Ann M. Pougiales, 100 Bush St., San Francisco, CA 94104. Transporting *automobiles and trucks*, in secondary movements, in truckaway service, from points in CA to points in ID, MT, OR, and WA and (2) from points in OR and WA to points in CA, ID, OR, and WA. (Hearing site: San Francisco, CA.)

MC 117730 (Sub-65F), filed July 25, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. Transporting *welding materials and supplies, electric motors, electric welders, hand trucks, and parts and accessories therefor*, from the facilities of the Lincoln Electric Company at Cleveland and Mentor, OH to points in CT, DE, DC, IA, IL, IN, MA, MD, MI, MO, NJ, NY, PA, WI, and WV. (Hearing site: Cleveland, OH.)

MC 117730 (Sub-66F), filed July 25, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. Transporting (1) *shampoo and toilet preparations*, from Fort Madison, IA, to Stone Mountain, GA, King of Prussia, PA, Farmers Branch, TX, Santa Fe, CA, and North Chicago, IL, and (2) *materials and supplies used in the manufacture and distribution of the commodities in (1) above*, from points in IL to Fort Madison, IA. (Hearing site: Chicago, IL.)

MC 118270 (Sub-12F), filed June 25, 1979. Applicant: PRODUCE TRANSPORT SERVICE, INC., 181 West Rampo St., Mahwah, NJ 07430. Representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. Transporting *bananas* from Portsmouth, VA, to points in CT, MA, ME, NH, NJ, NY, PA, RI, and VT. (Hearing site: New York, NY.)

MC 118370 (Sub-6F), filed July 26, 1979. Applicant: BANANA TRANSPORT, INC., 12712 North Oregon Ave., Tampa, FL 33612. Representative: John G. Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. Transporting (1) *central heating and air conditioning units* and (2) *component parts* for central heating and air conditioning units between Nashville, TN, on the one hand, and, on the other, points in FL. (Hearing site: Nashville, TN, or Washington, DC.)

MC 118420 (Sub-6F), filed July 23, 1979. Applicant: BULLDOG TRUCKING OF GEORGIA, INC., P.O. Box 357, Carnesville, GA 30521. Representative: Paul P. Watkins, Sr., P.O. Box 56387, Atlanta, GA 30343. Transporting (1) *textiles* and *textile products*, and (2) *equipment, materials and supplies* used in the manufacture and distribution of

textiles and textile products (except in bulk), between points in VA, NC, SC, GA, AL and TN, restricted to the transportation of traffic originating at or destined to the facilities of E. I. DuPont de Nemours & Co., Inc. (Hearing site: Atlanta, GA.)

MC 119441 (Sub-50F), filed July 22, 1979. Applicant: BAKER HI-WAY EXPRESS, INC., Post Office Box 506, 555 Commercial Parkway, Dover, OH 44622. Representative: Richard H. Brandon, Post Office Box 97, 220 West Bridge St., Dublin, OH 43017. Transporting (1) *brick, clay products, mortar,* and *cement,* and (2) *materials and supplies* used in the manufacture and shipping of brick, clay products, mortar and cement (except commodities in bulk), between those points in the United States in and east of MN, IA, KS, OK, and TX. (Hearing site: Columbus, OH.)

MC 119741 (Sub-220F), filed July 17, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *foodstuffs* (except in bulk), from the facilities of SCM Corporation at or near Louisville, KY, to points in AL, AR, CA, CT, DE, FL, GA, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: Louisville, KY.)

MC 119741 (Sub-221F), filed July 19, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *foodstuffs* (except commodities in bulk, in tank vehicles), from the facilities of Jeno's, Inc., at (1) Duluth, MN, and (2) Superior, WI, to points in AR, IL, IN, KS, KY, MI, MO, OH, OK, and TX. (Hearing site: Minneapolis, MN.)

MC 119741 (Sub-222F), filed July 20, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *foodstuffs,* (except in bulk, in tank vehicles), from the facilities of Shedd-Bartush Foods, Inc., at or near Louisville, KY, to points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, LA, MD, MA, MI, MS, MO, NE, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, WV, WI, and DC. (Hearing site: Louisville, KY.)

MC 120761 (Sub-58F), filed July 25, 1979. Applicant: NEWMAN BROS. TRUCKING COMPANY, a corporation, 6559 Midway Rd., P.O. Box 18728, Fort Worth, TX, 76118. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting *building and roofing materials* (except in bulk) from the facilities of Bird & Son, Inc., in Shreveport, LA to points in TX, OK, and NM. (Hearing sites: Washington, D.C. or Dallas, TX.)

MC 120910 (Sub-24F), filed July 19, 1979. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35403. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *ground coal,* in bulk, from Holt, AL to Chattanooga, TN. (Hearing sites: Birmingham, AL or Atlanta, GA.)

MC 121420 (Sub-16F), filed July 19, 1979. Applicant: DART TRUCKING COMPANY, a corporation, 61 Railroad St., Canfield, OH 44406. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting (1) *iron and steel articles,* and (2) *equipment, materials and supplies* used in the manufacture of iron and steel articles (a) between Youngstown and Cleveland, OH on the one hand, and, on the other, points in MI and IN and (b) between Aliquippa and Pittsburgh, PA, on the one hand, and, on the other, points in MI, IN, and OH. (Hearing site: Columbus, OH.)

MC 121420 (Sub-17F), filed July 30, 1979. Applicant: DART TRUCKING COMPANY, INC., P.O. Box 158, 61 Railroad St., Canfield, OH 44406. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215. Transporting *sand,* in bulk, in dump vehicles, from Troy Grove, IL to the facilities of Valley Mould, Division Microdot Inc. at Hubbard Twp., Trumbull County, OH. (Hearing site: Columbus, OH.)

MC 121470 (Sub-27F), filed June 18, 1979. Applicant: TANKSLEY TRANSFER CO., a corporation, 801 Cowan Street, Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting *iron and steel articles,* between the facilities of Volunteer Structures, Inc., at or near Nashville, TN, on the one hand, and, on the other, 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: Nashville, TN.)

MC 123841 (Sub-8F), filed July 23, 1979. Applicant: DAVID TESONE TRUCKING, INC., 5374 William Flynn Highway, Gibsonia, PA 15044. Representative: Kent S. Pope, 10 Grant St., Clarion, PA 16214. Transporting *salt,* in bulk, (1) from Fairport, OH, to points in WV and PA, and (2) from Millerstown, PA to points in WV. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 123841 (Sub-9F), filed July 25, 1979. Applicant: DAVID TESONE TRUCKING, INC., 5374 William Flynn Hwy., Gibsonia, PA 15044. Representative: Kent S. Pope, 10 Grant St., Clarion, PA 16214. Transporting *mill scale,* in bulk, in dump vehicles, from the facilities of Jones & Laughlin Steel Corp., at Cleveland, OH, to the facilities of Jones & Laughlin Steel Corp., at Aliquippa, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 124211 (Sub-370F), filed July 19, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting *activated carbon, chemicals, deadener compounds, filters, petroleum and petroleum products, and sealants* (except commodities in bulk), (1) from St. Louis, MO, to those points in the United States in and west of AL, TN, KY, IN, and MI (except AK and HI), (2) from Freedom, PA, to points in MI, and (3) from Dallas, TX, to points in AR, CO, LA, NM, and OK, and (4) from Los Angeles, CA, to those points in the United States in and west of MT, WY, CO, and NM (except AK and HI.) (Hearing site: Washington, DC.)

MC 124211 (Sub-371F), filed July 19, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting (1) *such commodities* as are dealt in by wholesale, retail, chain grocery, food business, and agricultural feed business houses, and (2) *materials, ingredients, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of shipments originating at or destined to facilities used by Ralston Purina Company. (Hearing site: St. Louis, MO.)

MC 124821 (Sub-52F), filed July 2, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. Transporting *masonry supplies* from Bethany, CT, to points in IL, IN, MI, NJ, NY, and OH. (Hearing site: New York, NY.)

MC 126320 (Sub-10F), filed July 23, 1979. Applicant: DETTINBURN TRUCKING, INC., P.O. Box 24, Route 3, Petersburg, WV 26847. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *lime and limestone*

products, from points in Pendleton County, WV, to points in NJ, (Hearing site: Washington, DC.)

MC 127820 (Sub-13F), filed July 30, 1979. Applicant: TRANS-SERVICE, INC., 1943 South Lawn Extension, Coshocton, OH 43812. Representative: Taylor C. Burneson, 1631 Northwest Professional Plaza, Columbus, OH 43220. To operate as a *contract carrier,* by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1)(a) *gloves, parts of gloves, clothing treated with protective substances,* and (b) *materials, supplies, and equipment used in the manufacture of the commodities in (a) above,* between Tarboro, NC, on the one hand, and, on the other, Haynesville, LA, Coshocton, OH, and Benicia, CA, (2) *yarn, thread, tubing, fabric, and other materials and supplies used in the manufacture of gloves, parts of gloves, and protective clothing,* (a) from Henderson, Newton, Mt. Holly, and China Grove, NC, Richmond, VA, and Trion, GA, to Haynesville, LA, and Coshocton, OH, and (b) from Richmond, VA, to Winston-Salem, NC, (3) *medical and surgical supplies,* (a) between Hancock, NY, on the one hand, and, on the other, Atlanta, GA, Itasca, IL, Benicia, CA, Ocala, FL, and Dallas, TX, (b) between Los Gatos, CA, and Atlanta, GA, and (c) between Broken Bow, Holdrege, and Columbus, NE, on the one hand, and, on the other, Dallas, TX, and (4) *stainless strip steel used in the manufacture of hypodermic needles* from Coshocton, OH, to Columbus, NE, all under continuing contract(s) with Becton, Dickinson and Company, of Rutherford, NY. (Hearing site: Columbus, OH.)

MC 129510 (Sub-16F), filed August 8, 1979. Applicant: ENGLUND EQUIPMENT COMPANY, a corporation, 740 Old Stage Rd., Salinas, CA 93901. Representative: Michael S. Rubin, 256 Montgomery St., Fifth Floor, San Francisco, CA 94104. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical fittings, accessories* for electrical fittings and (2) *materials and supplies* used in the manufacture and distribution of electrical fittings and accessories for electrical fittings, between points in the United States, (except AK and HI), under a continuing contract(s) with Thomas & Betts Corporation of Morristown, NJ. (Hearing site: San Francisco, CA; Phoenix, AZ; New York City, NY.)

MC 133630F, filed July 20 1979. Applicant: KING BROS. TRUCKING INC. OF ASHKUM, ILLINOIS, Rural Route 2, Ashkum, IL 60911. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62249. Transporting *crushed stone,* from points in Newton County, IN, to points in Ford County, IL. (Hearing site: Springfield, IL, or St. Louis, MO.)

MC 134501 (Sub-57F), filed July 23, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *restaurant furniture, fixtures, equipment, and supplies* (except foodstuffs) from San Antonio, TX, to points in the United States (except AK and HI). (Hearing site: Dallas or San Antonio, TX.)

MC 134501 (Sub-58F), filed July 23, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *new store fixtures,* from Minneapolis, MN, to points in the United States (except AK and HI). (Hearing site: Minneapolis, MN, Dallas, TX, or Washington, DC.)

MC 134501 (Sub-59F), filed July 23, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *restaurant furniture, fixtures, equipment, and supplies* (except foodstuffs), from Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston or Dallas, TX.)

MC 135070 (Sub-84F), filed July 22, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting (1) *such commodities* as are dealt in by wholesale and retail food business houses and agricultural feed business houses, (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to facilities of Ralston Purina Company. (Hearing site: St. Louis, MO, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 135410 (Sub-80F), filed July 23, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *(1) such commodities as are dealt in by wholesale and retail food business houses and agricultural feed business houses,* and *(2) materials, equipment, and supplies* used in the manufacture and distribution of the commodities *in (1) above,* between points in CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at or destined to the facilities of the Ralston Purina Company. (Hearing site: St. Louis, MO or Washington, DC.)

MC 136161 (Sub-20F), filed July 23, 1979. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *extruded vinyl and plastic siding, clapboard siding, plastic articles, paper articles, and building materials,* and (2) *accessories and supplies,* used in connection with the above-specified commodities (except in bulk), from the facilities of Bird & Son, Inc., at or near Bardstown, KY, to points in IL, IN, IA, KS, MI, MN, MO, NE, OH, and WI. (Hearing site: Washington, DC.)

MC 136161 (Sub-21F), filed July 23, 1979. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St. NW., Washington, DC 20001. Transporting *canned goods,* between the facilities of SCM Corporation, at or near Brooklyn, NY, on the one hand, and, on the other, points in IL and WI. (Hearing site: Philadelphia, PA.)

MC 138841 (Sub-19F), filed July 23, 1979. Applicant: BLACK HILLS TRUCKING CO., a corporation, P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Transporting *canned and preserved foodstuffs,* from the facilities of Heinz, USA, at or near Muscatine and Iowa City, IA, to points in ND and SD, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Rapid City, SD, or Des Moines, IA.)

MC 140601 (Sub-15F), filed August 6, 1979. Applicant: BILLY FRANK d.b.a. FRANK BROS., 349 Abbott Ave., Hillsboro, TX 76645. Representative: Charles E. Munson, P.O. Box 1945, 500 West Sixteenth St., Austin, TX 78767. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *copper tubing* from the facilities of Spartan Copper Products, Inc., at Hillsboro, TX, to points in the

United States (except AK and HI) under continuing contract(s) with Spartan Copper Products, Inc., of Hillsboro, TX. (Hearing site: Dallas, TX.)

MC 141450 (Sub-16F), filed August 8, 1979. Applicant: OLIN WOOTEN TRANSPORT CO., INC., P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *crushed marble and ground limestone*, in bags, and (2) *materials and supplies* used in quarrying; crushing and grinding of marble and stone from (1) Tate and Whitestone, GA, and Gantt's Quarry, AL, to all points in the United States in and east of TX, OK, KS, NE, SD, and ND, and (2) from all points in the United States in and east of TX, OK, KS, NE, SD, and ND to Tate and Whitestone, GA and Gantt's Quarry, AL, under a continuing contract(s) with Georgia Marble Company of Atlanta, GA. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 142980 (Sub-6F), filed August 8, 1979. Applicant: PROCESSING TRANSPORTATION, INC., P.O. Box 68, Conley, GA 30027. Representative: Mark S. Gray, P.O. Box 56387, Atlanta, GA 30343. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *inedible foodstuffs* from points in IL, LA, OH, and VA, to the facilities of Atlanta Processing B Inc., at Conley, GA, under a continuing contract(s) with Atlanta Processing B, Inc., of Conley, GA. (Hearing site: Atlanta, GA.)

MC 143280 (Sub-3F), filed July 20, 1979. Applicant: SAFE TRANSPORTATION COMPANY, a corporation, 7506 Washington Avenue South, Eden Prairie, MN 55435. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Transporting: (1) *foodstuffs*, and (2) *glass and plastic containers and closures* for glass and plastic containers, (a) from Chaska and Shakopee, MN, to points in ND, SD, MT, NE, KS, MO, IA, WI, and IL and (b) from Gurnee, Chicago, and Peotone, IL, and Muscatine, IA, to Chaska and Shakopee, MN. (Hearing site: St. Paul, MN.)

MC 144630 (Sub-23F), filed July 23, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *such commodities* as are dealt in by manufacturers of glass and plastic products, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, betweeen those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Anchor Hocking Corporation. (Hearing site: Columbus, OH.)

MC 145900 (Sub-4F), filed July 30, 1979. Applicant: THREE RIVERS TRUCKING, INC., Legionville Rd. Ambridge, PA 15003. Applicant's Representative: John A. Pillar 1500 Bank Tower, 307 Fourth Ave. Pittsburgh, PA 15222. Transporting iron or steel articles between the facilities of The Levinson Steel Company at Ambridge and Pittsburgh, PA, on the one hand, and, on the other, points in NY and NJ. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 146191 (Sub-4F), filed July 23, 1979. Applicant: JOHN I. RICKETTS, d.b.a. RICKETTS TRUCKING, 1001 W. Magnolia, Phoenix, AZ 85007. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting (1) *wood blocks and glued panels*, from Milo and Portland, OR, and Tenino, WA, to Delano, MN, and (2) *furniture*, in containers, from Scottsdale, AZ and Delano, MN, to points in AZ, CA, CO, NM, ID, NV, OR, TX, UT, and WA. (Hearing site: Phoenix, AZ.)

MC 146820 (Sub-3F), filed August 6, 1979. Applicant: B & G TRUCKING INC., 77 East Wilson Bridge Rd., Worthington, OH 43085. Representative: David Turano, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses (except frozen commodities and commodities in bulk), (1) from the facilities of The Clorox Company at Chicago, IL to points in IN, MI, and OH and (2) from the facilities of The Clorox Company at Cleveland, OH, to points in MI, PA, NY, and NJ, under a continuing contract(s) with The Clorox Company, Oakland, CA. (Hearing site: Columbus, OH or Washington, DC.)

MC 146940 (Sub-2F), filed July 20, 1979. Applicant: LUMBEE TRUCKING COMPANY, INC., Route 2, Box 139, Maxton, NC 28364. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. Transporting ((1)(a) *canned foodstuffs*, and (b) *materials, supplies, and equipment* used in the manufacturing and distribution of canned foodstuffs, (except commodities in bulk), from the facilities of Campbell Soup Company, at or near Maxton, NC, to points in AL, FL, GA, NC, SC, TN, and VA and (2) *materials, supplies, and equipment* used in the manufacturing and distribution of canned foodstuffs (except commodities in bulk), in the reverse direction. (Hearing site: Charlotte or Maxton, NC.)

MC 147121 (Sub-2F), filed July 20, 1979. Applicant: HUGH H. YOUNGBLOOD & JAMES R. YOUNGBLOOD d.b.a. YOUNGBLOOD TRUCKING CO., Post Office Box 993, Branson, MO 65616. Representative: Hugh H. Youngblood (same address as applicant). Transporting *charcoal briquettes, fireplace logs, wood chips*, and *lighter fluid* (except commodities in bulk), from the facilities of Husky Industries, Inc., at or near Branson, MO, to points in OK, TX, KY, AR, and NM. (Hearing site: Kansas City, MO.)

MC 147530 (Sub-2F), filed August 8, 1979. Applicant: GRINGERI TRANSPORT, INC., 729 Hartford Turnpike, Shrewsbury, MA 01072. Representative: James F. Martin, Jr., 8 W. Morse Rd., Bellingham, MA 02019. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk) from the facilities of General Foods Corporation at Dedham, MA, to Portland, South Portland, and South Gardiner, ME, Keene, Manchester, Salem, and Nashua, NH, Cumberland and East Providence, RI, and points in CT and VT, under a continuing contract(s) with General Foods Corporation of White Plains, NY. (Hearing site: Boston, MA.)

MC 147411 (Sub-2F), filed July 23, 1979. Applicant: ARTHUR G. KAHLER, Burt, Iowa 50522. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting (1) *steel buildings* and bins, and (2) *materials, supplies and parts* used in the manufacture and distribution of steel buildings and bins, from Galesburg, IL, and Kansas City, MO, to points in Kossuth County, IA. (Hearing site: Minneapolis, MN, or Des Moines, IA.)

MC 147911F, filed July 26, 1979. Applicant: TILFORD TRUCKING, INC., P.O. Box 34, Readyville, TN 37149. Representative: Henry E. Seaton, 425 13th St. N.W., Washington, DC 20004. Transporting *malt beverages* from St. Louis, MO, Columbus, OH and Detroit, MI, to points in that part of TN lying east of the TN River and on and west of U.S. Highway 27. (Hearing site: Nashville, TN.)

MC 147911 (Sub-1F), filed July 19, 1979. Applicant: TILFORD TRUCKING INC., P.O. Box 34, Readyville, TN 37149. Representative: Henry E. Seaton, 929

Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Transporting (1) *wheel balancing materials and equipment,* and (2) *commodities* used in the manufacture of the commodities in (1) above, between points in Rutherford County, TN, on the one hand, and, on the other, points in the United States (except AK and HI) (Hearing site: Nashville, TN.)

MC 148270 (Sub-3F), filed August 30, 1979. Applicant: BRELAR, INC., P.O. Box 796, Greenville, MS 38701. Representative: K. Larry Stivers, 1553 Sunridge Cove, Greenville, MS 38701. Transporting (1)(a) *foodstuffs* (except frozen and in bulk, in tank vehicles) and (b) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk, in tank vehicles) between Greenville, MS, on the one hand, and, on the other, points in the United States (except AK, HI, and MS), and (2)(a) *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), in containers or in trailers, having an immediately prior or subsequent movement by water, and (b) *empty containers or trailers,* between Mobile, AL, New Orleans and Baton Rouge, LA, Penascola, FL, and Gulfport, Greenville, and Pascagoula, MS. (Hearing site: Greenville or Jackson, MS.)

Note.—Dual operations may be involved.

MC 148570F, filed July 26, 1979. Applicant: N.A.T. TRANSPORTATION, INC., 229 N. Main St., Bradner, OH 43406. Representative: Abraham A. Diamond, 29 S. LaSalle St., Chicago, IL 60603. Transporting (1) *radiators, radiator cores, and heat exchangers,* and (2) *equipment, materials, and supplies,* used in the manufacture and distribution of the commodities in (1) above (except in bulk), between the facilities of Modine Manufacturing Company at Whittier, CA, Bloomington, IL, McHenry, IL, La Porte, IN, Logansport, IN, Paducah, KY, Germantown, MN, Joplin, MO, Trenton, MO, Clinton, TN, Knoxville, TN, Lawrenceburg, TN, Buena Vista, VA, and Racine, WI, on the one hand, and on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

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Decided: January 24, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2934 (Sub-34F), filed July 16, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 N. Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 E. Washington Street, Suite 1000, Indianapolis, IN 46204. Transporting *appliances* and *home entertainment equipment,* and parts for the foregoing commodities, from the facilities of J. C. Penney; at or near Anderson, IN, to points in AL, AR, CT, DE, DC, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. (Hearing site: Indianapolis, IN.)

MC 2934 (Sub-35F), filed July 30, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 E. Washington Street, Suite 1000, Indianapolis, IN 46204. Transporting *microfoam,* from the facilities of E. I. du Pont de Nemours, at or near Wurtland, KY, to points in ME, NH, CT, DE, IL, IN, MD, MA, MI, NJ, NY, OH, PA, RI, VT, WV, and WI. (Hearing site: Indianapolis, IN.)

MC 8515 (Sub-22F), filed July 13, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Transporting *plastics, rubber preservatives, rubber accelerators, softeners,* and *commodities which are manufactured, sold, and distributed by manufacturers of rubber or plastic products,* between Henry, IL, on the one hand, and, on the other, points in IN, IA, KY, MI, MN, MO, OH, PA, TN, WV, and WI. (Hearing site: Chicago, IL.)

MC 8535 (Sub-93F), filed July 16, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. Transporting *ores,* from Canden, NJ, and Wilmington, DE, to points in IL, IN, KY, MI, MD, NJ, NY, OH, PA, VA, and WV. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 15975 (Sub-21F), filed July 16, 1979. Applicant: Buske Lines, Inc., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting *containers, container ends, closures,* and *materials, equipment, and supplies* used or useful in the manufacture and distribution of the foregoing commodities (except commodities in bulk), between the facilities of the Carnation Co. at or near Mt. Vernon and St. Joseph, MO, on the one hand, and, on the other, points in AR, GA, IL, IN, IA, KS, NE, OH, TN and WI. (Hearing site: Springfield, IL, or St. Louis, MO.)

MC 24784 (Sub-35F), filed July 13, 1979. Applicant: BARRY, INC., 463 South Water, Olathe, KS 66061. Representative: ARTHUR J. CERRA, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Transporting *building, roofing, and insulation materials (except iron and steel articles and commodities in bulk)* from Kansas City, MO, to points in IA. (Hearing site: Kansas City, MO.)

MC 60014(Sub-129F), filed July 30, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *lumber products and plywood,* from the facilities of Pavco Industries, Inc., at Pascagoula, MS, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 60014(Sub-130F), filed July 30, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *lumber products, machinery, iron and steel articles, and commodities* the transportation of which because of size or weight requires the use of special equipment, from Pensacola, FL, to those points in and east of MN, WI, IL, KY, TN, MS, and LA, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Washington, DC.)

MC 70525 (Sub-1F), filed April 18, 1979. Applicant: MATHESON TRANSFER COMPANY, a corporation, 157 Welles St., Forty Fort, PA 18704. Representative: Richard M. Goldberg, 700 United Penn Bank Bldg., Wilkes-Barre, PA 18701. Transporting *household goods* as defined by the Commission, from Wilkes-Barre, PA, to points in NY, NJ, DE, MD, VA, WV, OH, CT, and DC. (Hearing site: Wilkes-Barre, PA.)

MC 99234 (Sub-16F), filed July 13, 1979. Applicant: WESTWAY MOTOR FREIGHT, INC., 5231 Monroe Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting (1) *meats, meat products, meat by-products, and articles distributed by meat-packing houses,* from points in CO (except the facilities of Sterling Colorado Beef Packers at Sterling, CO, and American Beef Packers, Inc. at Fort Morgan, CO), to points in AZ, CA, and NV; and (2) *alcoholic beverages and non-alcoholic beverage mixes* from points in CA, to points in CO and Cheyenne, WY. (Hearing site: Denver, CO.)

MC 102295 (Sub-38F), filed August 9, 1979. Applicant: GUY HEAVENER, INC., 480 School Lane, Harleysville, PA 19438. Representative: Maxwell A. Howell, Esquire, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. Transporting *abrasives,* and *materials* and *supplies* used in the manufacture, application and distribution of abrasives, between those points in the United States in and east of MN, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

MC 106074 (Sub-124F), filed July 12, 1979. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, NC 28043. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Transporting: *foodstuffs and canned meats,* from Tucker, GA, to points in NC and SC. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 106074 (Sub-135F), filed September 1, 1979. Applicant: B & P MOTOR LINES, INC., Shiloh Road and U.S. Hwy 22 South, Forest City, NC 20843. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *plastic pellets, chips, fiber, staple, yarn, and non-woven fabrics,* from Delaware City and Newark, DE, to Laredo TX. (Hearing site: Atlanta, GA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1262F), filed July 16, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *chain saws, snow throwers* and *garden, lawn, turf and golf course care equipment,* from the facilities of The Toro Company, in Minneapolis, MN to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN. (Hearing site: Minneapolis-St. Paul, MN.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1263F), filed July 16, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Georgia 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *cheese analog* (except in bulk) from Humboldt, TN, to points in the United States (except AK, HI, and TN). (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 110525 (Sub-1307F), filed August 10, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Transporting *liquid chemicals,* in bulk, in tank vehicles, from Chicago, IL, to points in AL, AZ, AR, CA, CO, FL, GA, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OR, OK, PA, SC, SD, TN, UT, VA, WA, WI, and WY. (Hearing site: Chicago, IL.)

MC 111375 (Sub-114F), filed July 13, 1979. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Elaine M. Conway, 10 South LaSalle St., Chicago, IL 60603. Transporting (1) *frozen foods,* from the facilities of Ore-Ida Foods, Inc., at Fruitland, Boise, Nampa, Borah, and Burley, ID, to the facilities of Ore-Ida Foods, Inc., at Plover, WI; and (2) *dehydrated potatoes,* from Firth, ID, to the facilities of Ore-Ida Foods, Inc., at Plover, WI, restricted in (1) and (2) to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Chicago, IL.)

MC 112304 (Sub-203F), filed July 13, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same address). Transporting (1) *aluminum ingots,* from the facilities of Howmet Aluminum Corporation, at or near Rockwall, TX, to points in the United States (except AK and HI), and (2) *materials and supplies* (except in bulk) used in the manufacture and distribution of aluminum ingots, in the reverse direction. (Hearing site: Dallas, TX, or Washington, DC.)

MC 112304 (Sub-208F), filed July 16, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). Transporting *contractors' equipment,* and *materials and supplies* (except commodities in bulk) for the foregoing commodities, between the facilities of Mississippi Valley Equipment Co., Inc., and Whisler Equipment Co., at or near Ontario, CA, Denver, CO, Jacksonville, FL, Chicago, IL, Louisville, KY, New Orleans, LA, St. Louis, MO, Cincinnati, OH, Pittsburgh, PA, Memphis, TN, and Houston, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: St. Louis, MO, or Washington, DC.)

MC 114284 (Sub-80F), filed March 5, 1979. Applicant: FOX-SMYTHE TRANSPORTATION CO., INC., 1700 South Portland, P.O. Box 82307, Oklahoma City, OK 73108. Representative: John E. Jandera, 641 Harrison St., Topeka, KS 66603. Transporting *meats, meat products, meat by products and articles distributed by meat packing houses* (except hides and commodities in bulk), 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 the facilities of Wilson Foods Corporation, at Oklahoma City, OK, to points in IL, IA, MN, and WI, restricted to the transportation of traffic originating at the above named origin and destined to the named destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 115865 (Sub-3F), filed July 12, 1979. Applicant: QUIMBY TRUCKING, INC., P.O. Box 807, Hermiston, OR 97838. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, OR 97210. Transporting *lumber* and *wood products,* between points in Umatilla, Baker, Grant, Morrow, and Union Counties, OR, on the one, hand, and, on the other, points in WA. (Hearing site: Hermiston, OR, or Pasco, WA.)

MC 117815 (Sub-326F), filed July 11, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th Street, Des Moines, IA 50317. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. Transporting: *magazines, magazine parts, newpaper supplements, and printing paper,* from the facilities of Meredith Corporation at or near Des Moines, IA, to points in IL, IN, KS, MI, NM, MO, NE, and WI, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Chicago, IL.)

MC 119774 (Sub-105F), filed July 6, 1979. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting *roofing and roofing materials,* from the facilities of Masonite Corporation, at or near Little Rock, AR, to points in LA, OK, and TX. (Hearing site: Dallas, TX or Little Rock, AR.)

MC 119974 (Sub-86F), filed July 16, 1979. Applicant: L.C.L. TRANSIT COMPANY a corporation, 949 Advance St., Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. Transporting *such commodities* as are dealt in by grocery and drug stores, (except foodstuffs and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Helene Curtis Industries, at or near Chicago, IL, to points in IN, IA, KY, MI, MN, MO, OH, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 121654 (Sub-29F), filed July 12, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Road NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *concrete beams, columns, double tees, joists and piling,* and reinforced and prestressed *concrete slabs,* from the facilities of Gifford Hill & Co., Inc., at or near Conley, GA, to points in NC, SC, TN, AL, and FL. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 121654 (Sub-30F), filed July 12, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Road NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting of (1) *pipe, pipe fittings, and parts and attachments for the foregoing commodities,* (2) *iron and steel articles* (3) *metal products,* and (4): *materials, equipment and supplies* (except in bulk) *used in the sale or installation of the commodities in* (1), (2) and (3) above, from points in Jefferson County, AL, to points in GA, FL, NC, SC, and TN. (Hearing site: Birmingham, AL.)

Note.—Dual operations may be involved.

MC 121664 (Sub-78F), filed July 30, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35201. Transporting *lumber,* (1) from points in FL, GA, MS, LA, and TX, to Russellville, AL, and (2) from Russellville, AL, to points in WI, IL, IN, OH, PA, MI, KY, TN, and TX. (Hearing site: Birmingham, AL.)

MC 123375 (Sub-18F), filed July 16, 1979. Applicant: KIRK TRUCKING SERVICE, INC., 3100 Braun Avenue, Westmoreland County, Murrysville, PA. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *iron and steel articles,* from the facilities of Weirton Steel Division of National Steel Corporation at or near Weirton, WV, and Steubenville, OH, to points in DE, MD, NY, and PA, and (2) *materials, equipment and supplies* used in the manufacture of the commodities specified in (1) above, from points in DE, MD, NY, and PA to the facilities of Weirton Steel Division of National Steel Corporation at or near Weirton, WV, and Steubenville, OH. (Hearing site: Washington, DC.)

MC 123405 (Sub-72F), filed August 10, 1979. Applicant: FOOD TRANSPORT, INC., R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting *foodstuffs,* from the facilities of Progresso Foods, Inc., at or near Vineland, NJ, to points in NC, SC, GA, FL, AL, MS, LA, and TX, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 123805 (Sub-16F), filed August 10, 1979. Applicant: LOMAX TRUCKING SERVICE, INC., R.R. #1, Hannibal, MO 63401. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. Transporting (1) *crushed bauxite,* in bulk, in dump vehicles, from those points in MO on and north of Interstate Hwy 70 and on or east of U.S. Hwy 63 to Chicago and Chicago Heights, IL, and (2) *petroleum coke,* in bulk, in dump vehicles, from Hartford, IL, to those points in MO on, north, and east of a line beginning at the IL-MO State line and extending along Interstate Hwy 70 to junction U.S. Hwy 63, then over U.S. Hwy 63 to the MO-IA State line. (Hearing site: Jefferson City or St. Louis, MO.)

MC 124964 (Sub-46F), filed July 30, 1979. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 907, Eustis, FL 32726. Representative: George A. Olsen P., P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail, wholesale, chain grocery, and food business houses (except commodities in bulk, and frozen foods), from Erie and North East, PA, to points in FL, GA, NC, and TN, under a continuing contract(s) with Borden Foods, Div. of Borden, Inc., of Columbus, OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 127705 (Sub-88F), filed July 11, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Drawer 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *paper, pulp board and wood pulp dishes, plates, trays and cups* from the facilities of St. Regis Paper Company at Marion, IN, to points in OH, IL, and MI. (Hearing site: New York, NY, or Washington, DC.)

MC 128095 (Sub-32F), filed July 11, 1979. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *new furniture* from the facilities of Anderson Hickey Company at or near Halls, TN, and Henderson, TX, to points in the United States in and east of TX, OK, KS, NE, SD, and ND. (Hearing site: Dallas, TX or Jackson, MS.)

MC 129994 (Sub-35F), filed July 13, 1979. Applicant: RAY BETHERS TRUCKING, INC., A Utah corporation, 176 West Central Avenue, Murray, UT 84107. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Transporting *roofing, and roofing materials, and supplies,* from points in CA to points in UT. (Hearing site: Salt Lake City, UT, or Los Angeles, CA.)

MC 133314 (Sub-5F), filed July 13, 1979. Applicant: SILVAN TRUCKING CO., INC., R. R. 2, Box 137, Pendleton, IN, 46064. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. Transporting *vegetables and fruit puree,* (except commodities in bulk), from the facilities of The Larsen Company in Chicago, IL, to points in IN, OH, PA, the Lower Peninsula of MI and Louisville, KY. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 136545 (Sub-26F), filed July 12, 1979. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad Street, Prentice, WI 54556. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting (1) *lumber and dimensional hardwoods* from the facilities of Ah-Ne-Pee Dimensional Hardwoods, Inc., at or near Ogema, WI, to points in the United States (except AK and HI); and (2) *materials, equipment and supplies* used in the manufacture and distribution of lumber and dimensional hardwoods, in the reverse direction. (Hearing site: Milwaukee, WI or Minneapolis, MN.)

MC 138104 (Sub-83), filed July 12, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting *tallow* in bulk, in tank vehicles, from the facilities of Iowa Beef Processors, Inc., at or near Amarillo, TX, Dakota City and West Point, NE, Denison and Fort Dodge, IA, Emporia, KS, and Luverne, MN, to points in AR, AZ, CA, CO, IL, IN, IA, LA, MN, MO, NV, OK, TN, TX, UT, and WI. (Hearing site: Omaha, NE or Sioux City, IA.)

MC 138144 (Sub-52F), filed July 12, 1979. Applicant: FRED OLSON CO., INC., 6022 West State St., Milwaukee, WI 53213. Representative: William D. Brejcha, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *fertilizer,* from Dubuque, IA, and Peoria, Fulton, and Pekin, IL, to points in WI. (Hearing site: Tulsa, OK, or Chicago, IL.)

MC 138635 (Sub-89F), filed July 11, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3995, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. Transporting *frozen foodstuffs,* from Wethersfield and Hartford, CT, to points in GA, CA, TX, ID, and WI. (Hearing site: Hartford, CT.)

Note.—Dual operations may be involved.

MC 138635 (Sub-90F), filed July 11, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3995, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., N.W., Washington, DC 20005. Transporting *textiles and textile products, and materials and supplies used in the manufacture and sale of textiles and textile products (except commodities in bulk),* between Abernathy, TX, on the one hand, and on the other, points in CA. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved. Applicant requests permission to tack the above requested authority with its authority held in MC 138635 (Sub 57F).

MC 138875 (Sub-219F), filed July 30, 1979. Applicant: SHOEMAKER TRUCKING CO., A Corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *foodstuffs (except commodities in bulk),* from New Paltz, NY, to Anaheim, CA, LaGrange, IL, Taylor, MI, Morrow, GA, and Dallas, TX. (Hearing site: Boise, ID, or Washington, DC.)

MC 138875 (Sub-221F), filed July 30, 1979. Applicant: SHOEMAKER TRUCKING CO., A Corporation, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh F. L. Sigloh (same address as applicant). Transporting *feed, feed ingredients and feed supplements (except commodities in bulk),* from points in CO to points in ID, OR and WA. (Hearing site: Portland, OR, or Boise, ID.)

MC 138875 (Sub-222F), filed July 30, 1979. Applicant: SHOEMAKER TRUCKING CO., A Corporation, 11900 Franklin Road, Boise, Idaho 83705. Representative: (same address as applicant). Transporting *doors, and door hardware and accessories* (except commodities in bulk), from the facilities of Jim Walter Doors, a Division of Celotex Corporation, at or near Portland, OR, to Spokane, WA. (Hearing site: Portland, OR or Boise, ID.)

MC 138875 (Sub-223F), filed July 30, 1979. Applicant: SHOEMAKER TRUCKING CO., A Corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *such products as are used in the manufacture and distribution of electronic equipment* (except commodities in bulk), from points in CA, IL, OR and WA, to points in ID. (Hearing site: Boise, ID or Washington, DC.)

MC 139495 (Sub-472F), filed July 13, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting: (1) *paint rollers and paint tray sets,* from the facilities of Hansteck Corp., at or near Roanoke, VA, to points in the United States (except AK and HI) and (2) *materials and supplies* used in the manufacture of the commodities named in (1), in the reverse direction. (Hearing site: DC.)

MC 139495 (Sub-474F), filed July 16, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *such commodities as are manufactured, processed or dealt in by manufacturers of glass and glass products* (except commodities in bulk), between the facilities of the Anchor Hocking Corporation in CA, FL, IL, IN, MD, MN, NJ, OH, PA, TX, and WV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: DC.)

MC 140404 (Sub-1F), filed July 13, 1979. Applicant: STERLING STORAGE & DISTRIBUTING CO., INC., 1000 McKee Ave., McKees Rocks, PA 15136. Representative: John A. Pillar, ESQ., 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. 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 the facilities of Sterling Storage & Distributing Co., Inc., at Pittsburgh, PA, on the one hand, and, on the other, points in OH and WV, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Pittsburgh, PA.)

MC 140484 (Sub-45F), filed June 15, 1979. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. N.W., Washington, DC 20005. Transporting (1) *transformers,* and *parts* for transformers, (2) *insulators,* (3) *pole line construction material,* (4) *capacitors,* and *parts* for capacitors, (5) *circuit-breakers,* and *parts* for circuit-breakers, (7) *batteries,* (8) *cutouts,* and *parts* for cutouts, (9) *arrestors,* and *parts* for arrestors, and (10) *materials and supplies* used in the manufacture and distribution of the commodities in (1), (2), (3), (4), (5), (6), (7), (8), and (9) 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 McGraw Edison. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 141124 (Sub-48F), filed July 22, 1979. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 15000, Wilmington, DE, 19850. Representative: Boyd B. Ferris, Muldoon, Pemberton & Ferris, 50 West Broad St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of optical products and optical supplies, (except commodities in bulk), between Hicksville, NY, Saddlebrook, NJ, and Harrodsburg, KY, on the one hand, and, on the other, points in the United States (except AK and HI. (Hearing sites: Columbus, OH, or Albany, NY.)

MC 141804 (Sub-250F), filed July 12, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *ground talc,* from points in MT, to points in CA, GA, IL, OH, TX, NC, and NJ. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-252F), filed July 13, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *paper and paper products,* from the facilities of Appleton Papers, Inc., at or near Appleton and Combined Locks, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-253F), filed July 13, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *new furniture, plastic articles and home accessories,* between points in OH, on the one hand, and, on the other, points in the United States (except AK, HI and OH). (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-259F), filed July 11, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *lighting fixtures,* (1) from

Gardena, CA, to points in the United States (except AK and HI), and (2) from points in NJ, IL, WI, to Gardena, CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-265F), filed July 13, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *cleaning compounds, soaps, bleaches, and washing detergents* (except in bulk), from Edgewater, Lynhurst, and Patterson, NJ, to points in CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-268F), filed July 11, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman Transporting *beverages,* from San Antonio, TX, and Evansville, IN, to Nashville, TN. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-269F), filed July 11, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *glass and glass products,* from the facilities of PPG Industries, Inc., at or near S. Greensburg, PA, to points in WA, OR, CA, AZ, NV, WY, UT, MT, ID, NM, and CO. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-329F), filed July 13, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *hand tools, drill presses, vises, bench grinders* (except commodities which because of their size and weight require special equipment), from the facilities of Allied Wholesale, Inc. in Van Nuys, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142935 (Sub-4F), filed July 12, 1979. Applicant: PLASTIC EXPRESS, 2999 La Jolla Street, Anaheim, CA 92806. Representative: Richard C. Celio, 1415 West Garvey Ave., Suite 102, West Covina, CA 91790. Transporting *resin and plastic pellets* from Big Springs, TX to points in AZ, CA, CO, NV, NM, OR, UT, and WA. (Hearing site: Los Angeles, CA.)

MC 142935 (Sub-5F), filed July 12, 1979. Applicant: PLASTIC EXPRESS, 2999 La Jolla St., Anaheim, CA 92806. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. Transporting *building materials,* except in bulk, from Denver, CO, to points in CA. (Hearing site: Los Angeles, CA.)

MC 144344 (Sub-3F), filed July 13, 1979. Applicant: DE ANZA DELIVERY SYSTEM, INC., P.O. Box 1119, San Jose, CA 95108. Representative: J. H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Transporting *such commodities as are dealt in by department stores and mail order houses* (except commodities in bulk), between points in CA, those in NV on and west of U.S. Hwy 395, and Sparks, NV, restricted to the transportation of traffic originating at or destined to the facilities of J.C. Penney Co., Inc. (Hearing site: San Francisco, CA.)

MC 145054 (Sub-23F), filed July 13, 1979. Applicant: COORS TRANSPORTATION CO., 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting (1) *meats, meat products, meat by-products* and *articles distributed by meat packing houses* (except hides and commodities in bulk) and (2) *foodstuffs,* in mixed loads with the commodities in (1) above, from the facilities of Oscar Mayer & Co., Inc. at or near Beardstown, IL, and Davenport and Perry, IA, to points in CA and Denver, CO. (Hearing site: Denver, CO.)

MC 145734 (Sub-9F), filed July 16, 1979. Applicant: B D TRUCKING CO., P.O. Box 817, Ripon, CA 95366. Representative: Edward J. Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. Transporting *lime and lime products* (except in bulk), from the facilities of Flintkote Lime Company, at or near Dolomite, UT, to points in OR and CA. (Hearing site: San Francisco, or Los Angeles, CA.)

MC 145844 (Sub-1F), filed July 13, 1979. Applicant: INTERLEAGUE CORP. d.b.a. W. T. TRANSPORT CO., 2604 Texas Ave. Rear, P.O. Box 3964, Lubbock, TX 79452. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *lumber, lumber mill products,* and *wood products,* from points in AZ, CO, and NM, to points in TX. (Hearing site: Dallas or Lubbock, TX.)

MC 146364 (Sub-2F), filed July 11, 1979. Applicant: VAN DYKE TRUCK LINES OF OREGON, INC., 487 Pacific Highway 99 N, Eugene, OR 97402. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97258. Transporting *lumber* and *lumber mill products,* from points in Lane, Linn, and Douglas Counties, OR, or Clallam, Grays Harbor, Lewis, Pacific, and Cowlitz Counties, WA, to points in CA. (Hearing site: Portland, OR, or San Francisco, CA.)

MC 146725 (Sub-4F), filed July 12, 1979. Applicant: FREEPORT TRANSPORT, INC., P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. Transporting *blasting and cleaning abrasives,* and *slag products,* from Riddle, OR, to points in Davis, Salt Lake, UT and Weber Counties, UT. (Hearing site: Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 146754 (Sub-3F), filed July 13, 1979. Applicant: TENNANT TRUCK LINES, INC., P.O. Box 336, Orion, IL 61273. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. Transporting *such commodities as are dealt in by manufacturers and dealers of agricultural machinery* (except commodities in bulk), from Rock Island, IL, to points in IL, IN, IA, MO, MN, OH, and WI, restricted to the transportation of traffic originating at the named origin and destined to the named destination states. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 146885 (Sub-2F), filed July ?, 1979. Applicant: BEN CAPOBIANCO TRUCKING, INC., 5275 Talawanda Drive, Fairfield, OH 45014. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. 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 the facilities of Nationwide Shippers Cooperative Association, Inc., at or near Cincinnati, OH, to points in AZ, CA, CO, FL, ID, MT, NV, OR, TX, UT, and WA. (Hearing sites: Columbus, OH, or Washington, DC.)

MC 147035 (Sub-3F), filed July 31, 1979. Applicant: J. HOWARD LEASING, INC., 253 S. W. Cutoff, Worcester, MA 01604. Representative: James F. Martin, Jr., 8 W. Morse Rd., Bellingham, MA 02019. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen concentrates,* and *materials and supplies* for the foregoing commodities, between the facilities of Newton Food, Inc., at Taunton, MA, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, MD, DE, WV, VA, FL, IL, MI, and OH, under continuing contract(s) with Newton Foods, Inc., of Canton, MA. (Hearing site: Boston, MA.)

MC 147094 (Sub-2F), filed July 11, 1979. Applicant: DON BYBEE & SONS TRUCKING, INC., 145 East Main St., Hyrum, UT 84319. Representative: Donald Bybee (same address as applicant). Transporting *office furniture, new furniture,* and *parts* for the foregoing commodities, (1) from points in CA, NM, AZ, UT, NV, and ID, to points in CA, UT, AZ, NM, ID, MT, WA, OR, NV, WY, CO, and TX; (2) *cheese* and *cheese products,* from the facilities of Mountain Farms Cheese, in Cache County, UT, to points in UT, CA, ID, NM, CO, AZ, NV, WA, OR, MT, and WY; and (3) *cheese, cheese products, and cheese packaging material,* and *equipment and supplies* used in packaging and distribution of cheese, from points in CA, UT, ID, NM, CO, AZ, NV, WA, OR, MT, WY, MN, WI, and OH, to the facilities of Mountain Farms Cheese, in Cache County, UT. (Hearing site: Salt Lake City, UT.)

MC 147465 (Sub-1F), filed June 27, 1979. Applicant: MOORE & SON CO., a corporation, 2882 Johnstown Road, Columbus, OH 43219. Representative: Stephen J. Habash, 100 East Broad Street, Columbus, OH 43215. 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 Columbus, OH, on the one hand, and, on the other, points in OH, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Columbus, OH.)

MC 147474 (Sub-1F), filed May 16, 1979. Applicant: SOUTHWIRE COMPANY, a corporation, 126 Fertilla St., Carrollton, GA 30117. Representative: Theodore M. Forbes, Jr., 4000 First National Bank Tower, Atlanta, GA 30303. Transporting *plastic resin, color concentrates,* and *paint,* from Wilmington, DE, Henry, IL, Perryville, MD, Charlotte, NC, Akron, Avon Lake, Cincinnati, Cleveland, and Mansfield, OH, and Grand Junction, TN, to points in GA. (Hearing site: Atlanta, GA.)

MC 147534 (Sub-3F), filed August 12, 1979. Applicant: SUPERIOR TRUCK LEASING, INC., 4315 South 79th Street, Omaha, NE 68127. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *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 commodities in bulk), from Omaha, NE, to points in NC and FL. (Hearing site: Omaha, NE.)

MC 147615 (Sub-1F), filed July 13, 1979. Applicant: LINCOLN TRAIL SERVICE CENTER, INC., Rural Route 2, Box 75, Corydon, IN 47112. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *wrecked and disabled vehicles* and *replacement vehicles* for wrecked and disabled vehicles between points in IN, on the one hand, and on the other, points in OH, MI, PA, NY, KY, IL, GA, TN, WV, VA, MO, AR, TX, LA, MS, AL, FL, SC, NJ, MA, and NC. (Hearing site: Indianapolis, IN, or Louisville, KY.)

MC 147734 F, filed June 29, 1979. Applicant: PIGGYBACK DRAYAGE, INC., Suite 222, 1601 Penn Ave., Pittsburgh, PA 15221. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. 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) from Pittsburgh, PA, to points in OH, WV, and PA within 150 miles of Pittsburgh, and (2) from the destination States in (1) above, to Pittsburgh, PA, restricted to the transportation of traffic having a prior or subsequent movement in trailer on flatcar (piggyback) service. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 147745 F, filed July 12, 1979. Applicant: CAT-LINE, INC., 800 Grant Avenue, Addison, IL 60101. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. Transporting: *fabricated foam products,* from Addison, IL, to points in IA, IN, MI, IL, and WI. (Hearing site: Chicago, IL.)

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Decided: January 25, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 22509 (Sub-22F), filed June 29, 1979. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St. Joseph, MO 64505. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. Transporting *insulation and insulation materials,* from the facilities of Owens-Corning Fiberglas Corporation at or near Kansas City, and Pauline, KS to points in IL, IA, MO, and NE. (Hearing site: Kansas City, MO.)

MC 25798 (Sub-385F), filed July 2, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). Transporting (1) *bananas,* and (2) *agricultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6) in mixed loads with bananas, from Norfolk, VA, to points in KS, KY, IL, IN, IA, MI, MN, MO, NE, ND, OH, SD, and WI. (Hearing site: Tampa, FL.)

MC 31389 (Sub-283F), filed August 3, 1979. Applicant: McLEAN TRUCKING COMPANY, a corporation, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of usual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Southwest Power Company, at or near Marshall, TX, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Dallas, TX, or Washington, DC.)

MC 31389 (Sub-284F), filed August 3, 1979. Applicant: McLEAN TRUCKING COMPANY, a corporation, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. 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 Kaufman, Longview, Marshall, and Tyler, TX, as intermediate and off-route points in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Dallas, TX, or Washington, DC.).

MC 35358 (Sub-45F), filed June 29, 1979. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Macalaster Drive N.E., Minneapolis, MN 55421. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *furniture, fixtures, and furnishings,* between points in MI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Grand Rapids, MI.)

MC 40898 (Sub-27F), filed August 1, 1979. Applicant: S & W MOTOR LINES, INC., P.O. Box 11439, Greensboro, NC 27409. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168.

Transporting (a) *plumbing fixtures,* (b) *plumbing supplies,* (c) *fittings,* and (d) *accessories* for the commodities named in (a), (b), and (c) above, from Trenton, NJ, to points in NC and SC, and (2) from Tiffin, OH, to points in NC, SC, and VA. (Hearing site: Washington, DC, or Greensboro, NC.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 44639 (Sub-94F), filed August 6, 1979. Applicant: L & M EXPRESS CO., INC., 220 Ridge Rd., Lyndhurst, NJ 07071. Representative: Robert B. Russell (same address as applicant). Transporting *wearing apparel,* and *materials and supplies* used in the manufacture of wearing apparel, (except commodities in bulk), between points in MD and DE, on the one hand, and, on the other, New York, NY, and points in VA. (Hearing site: New York, NY, or Newark, NJ.)

MC 56779 (Sub-5F), filed August 6, 1979. Applicant: CLAXON TRUCK LINE, INC., P.O. Box 678, Frankfort, KY 40602. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 40601. 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 Louisville, KY, and Cincinnati, OH, over Interstate Hwy 71 serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Frankfort, KY, or Louisville, KY.)

MC 76429 (Sub-8F), filed June 28, 1979. Applicant: STEWART TRUCK LINE, INC., P.O. Box 109, Dry Ridge, KY 41035. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. 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 the facilities of Sprague Meter Division of Textron, Inc. at Owenton, KY, on the one hand, and, on the other, Chicago, IL, South Bend, Elkhart, and Bremen, IN, and West Allis, WI. (Hearing site: Lexington, KY, or Cincinnati, OH.)

Note.—Tacking is authorized at Owenton, KY, with carrier's authority in MC 76429, issued November 17, 1977. The following service is authorized: *General commodities,* with the execptions noted above, between Cincinnati, OH, Lexington, KY, points on U.S. Hwy 25, between Cincinnati, OH, and Corinth, KY, and points on U.S. Hwy 22 between Dry Ridge and Owenton, KY, on the one hand, and, on the other, Chicago, IL, South Bend, Elkhart, and Bremen, IN, and West Allis, WI.

MC 78118 (Sub-47F), filed August 3, 1979. Applicant: W. H. JOHNS, INC., 35 Witmer Rd., Lancaster, PA 17602. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting (1) *glass containers,* (a) from Paint and Elk Townships (Clarion County), PA, and Knox, Marienville, and Parker, PA, to DuBois, PA, and points in MD and DE, (b) from Dubois, PA, to points in DE, FL, GA, NC, NJ, MD, SC, and VA, and points in that part of WV on and north of U.S. Hwy 50, and (c) from Atlanta, GA, to points in DE, MD, NJ, and PA, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of glass containers, from points in DE, MD, and NJ, to Knox, Marienville, and Parker, PA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 103798 (Sub-46F), filed August 6, 1979. Applicant: MARTEN TRANSPORT, LTD, Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis MN 55402. Transporting *canned goods* from Plainview, MN, to points in AZ, CO, IA, KS, MO, NE, NM, and UT. (Hearing site: Minneapolis or St. Paul, MN.)

MC 104149 (Sub-209F), filed August 3, 1979. Applicant: OSBORNE TRUCK LINE, INC., 516 North 31st St., Birmingham, AL 35202. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *iron and steel articles,* from points in IN, IL, OH, PA, and WV, to points in AL, FL, GA, LA, and MS. (Hearing site: Birmingham, AL.)

MC 106398 (Sub-938F), filed August 7, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *iron and steel articles,* (1) from Bethlehem, PA, to points in AL, GA, IL, IN, KS, KY, MI, MN, MO, NC, NE, SC, TN, VA, WI, and WV, (2) from Johnstown, PA, to points in AR, IL, IN, KY, MO, WI, and WV, (3) from Lackawanna, NY, to points in AL, GA, IL, IN, KY, MN, MO, TN, and WI, (4) from Sparrows Point, MD, to points in AL, GA, IL, IN, KS, KY, MO, MS, NC, SC, TN, VA, WI, and WV, and (5) from Burns Harbor, IN, to points in AL, AR, IL, KS, KY, MN, MO, MS, NE, TN, WI, and IA. (Hearing site: Philadelphia, PA.)

MC 109238 (Sub-19F), filed August 6, 1979. Applicant: DE HART MOTOR LINES, INC., Highway 64–70 West, Conover, NC 28613. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *new furniture,* from points in the counties of Alexander, Caldwell, Catawba, McDowell and Rutherford, NC, to points in FL. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 109449 (Sub-41F), filed June 29, 1979. Applicant: KUJAK TRANSPORT, INC., 6366 W. 6th Street, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Transporting *frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in IA, MN, ND, SD, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Monument Distribution Warehouse, Inc., of Indianapolis, IN. (Hearing site: Chicago, IL.)

MC 113459 (Sub-134F), filed June 29, 1979. Applicant: H. J. JEFFRIES TRUCK LINES, INC., P.O. Box 94850, Oklahoma City, OK 73143. Representative: J. Michael Alexander, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting *refined copper,* and *equipment, materials, and supplies* used in the mining and manufacture of refined copper (except commodities in bulk), between Garfield, UT, and Hurley, NM, on the one hand, and, on the other, points in the United States in and east of MT, WY, CO, and NM, restricted to the transportation of traffic originating at or destined to the facilities of Hennecott Copper Corporation. (Hearing site: Salt Lake City, UT, or Dallas, TX.)

MC 113678 (Sub-824F), filed June 29, 1979. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *canned and preserved foodstuffs* (except commodities in bulk), from the facilities of Greeley Foods, Inc., at or near Greeley, CO, to points in the United States (except AK, CO, and HI). (Hearing site: Denver, CO.)

MC 116459 (Sub-80F), filed July 2, 1979. Applicant: RUSS TRANSPORT INC., P.O. Box 4022, Chattanooga, TN 37405. Representative: David K. Fox (address same as applicant). Transporting *liquid chemicals,* in bulk, in tank vehicles, from Wilmington, NC, to points in AL, GA, KY, SC, TN, and VA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 116859 (Sub-21F), filed June 29, 1979. Applicant: CLARK TRANSFER, INC., P.O. Box 190, Burlington, NJ 08016. Representative: David A. Sutherlund, 1150 Connecticut Ave. NW., Suite 400,

Washington, DC 20036. Transporting *magazines and periodicals* from Atlanta, GA, to points in DE, MD, NC, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 116859 (Sub-23F), filed August 9, 1979. Applicant: CLARK TRANSFER, INC., P.O. Box 190, Burlington, NJ 08016. Representative: David A. Sutherlund, 1150 Connecticut Ave. NW., Suite 400, Washington, DC 20036. Transporting *printed matter*, from Tallahassee, FL, to Bridgeport and Hartford, CT. (Hearing site: Washington, DC.)

MC 117068 (Sub-120F), filed August 2, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting (1) *hydraulic booms, and machine parts*, from the facilities of Telelect, Inc., at Watertown, SD, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture, sale, and installation of the commodities named in (1) above (except commodities in bulk), in the reverse direction.

MC 117119 (Sub-775F), filed August 6, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. Transporting *chemicals* (except commodities in bulk, in tank vehicles), (a) from the facilities of Thiokol/Dynachem in Orange County, CA, to Moss Point, MS, and (b) from Moss Point, MS, to points in NC, MA, NE, OK, and NJ. (Hearing site: Los Angeles, CA, or Philadelphia, PA.)

MC 117519 (Sub-5F), filed August 6, 1979. Applicant: TRANSPORTATION, INC., Route 4, Ottawa, KS 66067. Representative: Walker A. Hendrix, Second & Main P.O. Box 7, Ottawa, KS 66067. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *expanded shale aggregate*, from Ottawa and Marquette, KS, to (a) points in IA, (b) those points in that part of TX on, north, and west of a line beginning at the NM–TX state line and extending along U.S. Hwy 380 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the TX–OK state line, and (c) those points in that part of NM on, north, and east of a line beginning at the TX–NM state line and extending along U.S. Hwy 60 to junction Interstate Hwy 25, then north along Interstate Hwy 25 to junction NM Hwy 44, then along NM Hwy 44 to the CO–NM state line, under continuing contract(s) with Buildex, Inc., of Ottawa, KS. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 118569 (Sub-10F), filed June 29, 1979. Applicant:HALBERG CONSTRUCTION AND SUPPLY, INC., d.b.a. KIRSCHER TRANSPORT CO., Virginia, MN 55792. Representative Earl Hacking, 1700 New Brighton Boulevard, Minneapolis, MN 55413. Transporting *bentonite clay*, in bulk, from points in Phillips County, MT, Butte County, SD, and Big Horn, Crook, Hot Springs, Natrona, Washakie, and Weston Counties, WY, to points in IL, IN, IA, MI, MN, and OH. (Hearing site: Minneapolis, MN, or St. Paul, MI.)

MC 119099 (Sub-26F), filed August 9, 1979. Applicant: BJORKLUND TRUCKING, INC., 1st Ave., N.E. & 8th Street, Buffalo, MN 55313. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55042. Transporting *lumber and wood chips*, from Princeton, Onamia, Maple Grove, and Hinckley, MN, to points in WI. (Hearing site: Minneapolis, MN, or St. Paul, MN.)

MC 119399 (Sub-101F), filed July 2, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. Transporting (1) *glass containers*, and (2) *materials, equipment, and supplies* used in the manufacture of glass containers, from the facilities of Midland Glass Company, Inc., at or near Henryetta, OK, to points in the United States (except AK, HI, AR, CO, IA, KS, LA, MS, MO, NE, TN, and TX), and (b) from points in the United States (except AK and HI), to Midland Glass Company, Inc., at or near Henryetta, OK. (Hearing site: Kansas City, MO.)

MC 119489 (Sub-62F), filed July 2, 1979. Applicant: PAUL ABLER, d.b.a. CENTRAL TRANSPORT COMPANY, P.O. Box 249, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 66501. Transporting *tallow*, in bulk, from the facilities of Iowa Beef Processors, Inc., at or near (1) Dakota City and West Point, NE, (2) Denison and Fort Dodge, IA, (3) Luverne, MN, and (4) Emporia, KS, to points in AR, AZ, CA, CO, IL, IN, IA, LA, MA, MN, MO, NV, NJ, OH, OK, OR, TN, TX, UT, WA, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE, or Sioux City, IA.)

MC 119789 (Sub-620F), filed August 7, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). Transporting (1) *malt beverages*, from the facilities of Pabst Brewing Company at (a) Newark, NJ, (b) Milwaukee, WI, (c) Peoria, IL, and (d) Pabst (Houston County), GA, and the facilities of Blitz-Weinhard Brewing Co. at Portland, OR, to points in the United States (except AK and HI) and (2) *materials and supplies* used in the manufacture and distribution of malt beverages, in the reverse direction. (Hearing site: Milwaukee, WI.)

MC 119988 (Sub-204F), filed June 29, 1979. Applicant: GREAT WESTERN TRUCKING CO., a corporation, P.O. Box 1384, Lufkin, TX 75901. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Transporting *plastic articles* (except commodities in bulk), and *materials, equipment, and supplies* used in the manufacture of plastic articles (except commodities in bulk), between the facilities of Rheem Manufacturing Company, (a) at Indianapolis, IN, on the one hand, and, on the other, points in the United States in and west of MI, IN, KY, TN, and AL (except AK and HI), and (b) at or near Bryan, TX, on the one hand, and, on the other points in the United States in and west of MI, IN, KY, TN, and AL. (except AK, HI, and TX). (Hearing site: Chicago, IL, or Washington, DC.)

MC 121489 (Sub-16F), filed August 1, 1979. Applicant: NEBRASKA-IOWA XPRESS, INC., 3219 Nebraska Ave., Council Bluffs, IA 51501. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. 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, from Denver, CO, to points in IL, WI, MN, MO, IA, KS, NE, ND, and SD. Note: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Denver, CO.)

MC 123048 (Sub-466F), filed August 9, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021, 21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Transporting (1) *material handling equipment and material storage equipment*, from Stevens Point and New London, WI, to points in IA, IL, IN, OH, and MI, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, from IL, IN,

and MI, to Stevens Point and New London, WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 124078 (Sub-975F), filed July 2, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Transporting *liquid chemicals,* in bulk, in tank vehicles, from Baton Rouge, LA, and Houston, TX, to those points in the United States in and east of KS, NE, ND, OK, SD, and TX. (Hearing site: Baton Rouge, or New Orleans, LA.)

Note.—Dual operations may be involved.

MC 125708 (Sub-182F), filed August 2, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley, P.O. Box 5216, Lake Station, IN 46405. Representative: Edward F. Pietrowski, 109 Velma, South Roxana, IL 62087. Transporting (1) *iron and steel articles,* from the facilities of North Star Steel Company, at or near Monroe, MI, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, in the reverse direction. (Hearing site: Detroit, MI, or Washington, DC.)

MC 126118 (Sub-169F), filed August 3, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Howard C. Petersen (address same as Applicant). Transporting (1) *such commodities* as are dealt in or used by manufacturers or converters of *paper and paper products,* (except commodities in bulk), and (2) *materials, equipment and supplies* used in the distribution of paper and paper products, (except commodities in bulk), between the facilities of the Mead Corporation, at (a) Chillicothe and Schooleys, OH, and (b) Kingsport and Gray, TN, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IA, KS, LA, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY, restricted to the transportation of traffic, (except traffic moving in foreign commerce), originating at or destined to the named facilities. (Hearing site: Columbus, OH, or Lincoln, NE.)

Note.—Dual operations may be involved.

MC 126118 (Sub-170F), filed August 3, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (address same as Applicant). Transporting (1) *central air conditioning units, air handling units, heating units,* and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities named in (1) above, between Ft. Smith, AR, Trenton, NJ, and Tyler, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 126309 (Sub-2F), filed August 2, 1979. Applicant: JAMES E. GOONAN, Route 1, Box 97, Browntown, WI 53522. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products,* in bulk, in tank vehicles, from Amboy, IL, and Dubuque and Iowa City, IA, to South Wayne, WI, under continuing contract(s) with Pecatonica Oil Company Co-operative, of South Wayne, WI. (Hearing site: Madison, WI, or Dubuque, IA.)

MC 129759 (Sub-28F), filed July 2, 1979. Applicant: TRIANGLE TRUCKING CO., a corporation, P.O. Box 490, McKees Rocks, PA 15136. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *transformers and transformer parts,* from the facilities of RTE Corporation, at or near Waukesha, WI to points in the United States in and east of MN, IA, MO, AR, and LA, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 133689 (Sub-276F), filed June 8, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010 West St. Paul, MN 55118. 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 points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Gamble-Skagmo, Inc. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-280F), filed June 28, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010 West St. Paul, MN 55118. Transporting *meats, meat products, meat byproducts, dairy products and articles distributed by meat-packing houses,* and *such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers,* as described in Sections A, B, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodites in bulk), between Pittsburgh, PA, and Louisville, KY, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Armour and Company. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-281F), filed June 28, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First St. S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1)(a) *boat trailers,* (b) *trailers* for recreational vehicles, and (c) *parts and accessories* for the commodities named in (a) and (b) above, (except commodities in bulk), from St. Paul, MN, and Jacksonville, FL, to those points in the United States in and east of MD, SD, NE, KS, OK, and TX; and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-282F), filed June 28, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *abrasives, and materials and supplies useful in the manufacture and distribution of abrasives,* (except commodities in bulk) between the facilities of Ansari Abrasives, at or near Minneapolis, MN, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-283F), filed June 28, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *meats, meat products, meat byproducts, dairy products, and articles distributed by meat-packing houses,* as described in sections A, B 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 Albert Lea, MN, to points in AL, GA, KY, NC, SC, TN, VA, and WV, restricted to the transportation of traffic originating at the named origins and destined to the indicated

destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 133689 (Sub-284F), filed June 28, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *clapboard siding, plastic articles, paper articles,* and *building materials,* and (2) *accessories* for commodities in (1) above, and (3) supplies used in the manufacture of the commodities in (1) above, (except commodities in bulk), from the facilities of Bird & Son, Inc., Bardstown, KY, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: St. Paul, MN.)

MC 136899 (Sub-45F), filed August 6, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting *sugar,* in bags, from Chaska, Crookston, East Grand Forks, Minneapolis, Moorhead, Renville, and St. Paul, MN, and Drayton, ND, to points in IL, IN, IA, KS, KY, MI, MO, NE, ND, OH, SD, and WI. (Hearing site: Madison, WI, or Minneapolis, MN.)

MC 138299 (Sub-13F), filed July 2, 1979. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *contract carrier,* by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *fiberglass bathtubs and shower stalls, cultured marble lavatories, bathtubs, and wall surrounds, and chinaware toilets and lavatories,* from points in 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), under continuing contract(s) with Kimstock, Inc., of Santa Ana, CA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138469 (Sub-156F), filed June 29, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. Transporting *meats, 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 of Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Albert Lea, MN, and Cedar Rapids, IA, to points in OK, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, KS.)

MC 140389 (Sub-73F), filed August 3, 1979. Applicant: OSBORNE TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. Transporting (1) *automotive parts and automotive accessories,* and (2) *materials, equipment and supplies* used in the manufacture of the named commodities in (1) above, 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 AK and HI.) (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 140549 (Sub-17F), filed July 2, 1979. Applicant: FRITZ TRUCKING, INC., East Highway 7, Clara City, MN 56222. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting *lumber,* from Osage and Hullett, WY, and Willmar, MN, to points in IA, MN, MT, NE, ND, and SD. (Hearing site: Minneapolis or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 140829 (Sub-280F), filed June 29, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting *frozen foods,* from Wethersfield, CT, to points in IL, IA, KS, MI, MN, MO, OH, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination states. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 141459 (Sub-5F), filed June 29, 1979. Applicant: A.G.S. ENTERPRISES, INC., 809 Columbia Boulevard, Litchfield, IL 62056. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Transporting *bakery goods,* from Burlington, IA, to points in IL, IN, KS, MI, MO, OH, and PA. (Hearing site: Chicago, IL.)

MC 142059 (Sub-90F), filed August 6, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *iron and steel articles,* and *materials, equipment, and supplies* used in the manufacture of iron and steel articles (except commodities in bulk, in tank vehicles), between the facilities of United States Steel Corporation, at points in Cuyahoga, Lorain, Mahoning, and Stark Counties, OH, and Allegheny and Westmoreland Counties, PA, on the one hand, and, on the other, points in IN, IL, and MO, restricted to the transportation of traffic originating at or destined to the named origins and destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 142059 (Sub-91F), filed August 6, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *contractors equipment* (except commodities in bulk), from Atlasburg, PA, to points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 142269 (Sub-8F), filed August 7, 1979. Applicant: EAGLE HAWK CORP., Box 155, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *meats, meat products, meat byproducts and articles distributed by packinghouses* as described in Sections A and C of Appendix I, to the report in *Description in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Co. at (a) Ft. Dodge, IA, and (b) Huron and Sioux Falls, SD, to points in CT, GA, MD, MA, NJ, NY, OK, OH, and PA, restricted to the transportation of traffic originating at the named origins, and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

MC 142368 (Sub-26F), filed August 7, 1979. Applicant: DANNY HERMAN TRUCKING, INC., 1415 East Ninth Ave., Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *inedible pet food ingredients,* from the facilities of Consolidated Pet Foods, Inc., at or near Amarillo, TX, to the facilities of Kal Kan Foods, Inc., at or near Vernon, CA. (Hearing site: Los Angeles, CA.)

MC 142559 (Sub-104F), filed August 3, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *paper, paper products, and woodpulp* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture, sale and distribution of the commodities named in (1) above, (except commodities in bulk), between Cincinnati, Hamilton, and Middletown, OH, on the one hand, and, on the other, those points in the

United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: Columbus, OH.)

Note.—The person or persons who appear to be engaged in common control with another carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

Note.—Dual operations may be involved.

MC 142559 (Sub-106F), filed August 7, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. Transporting (1) *welders, welder parts, welder systems, welding compounds, welding supplies,* and (2) *materials and supplies* used in the manufacture, distribution, and operation of the commodities named in (1) above, (except commodities in bulk), between City of Industry and Santa Fe Springs, CA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Stoody Company and Stoody International Company. (Hearing site: Columbus, OH.)

MC 142559 (Sub-108F), filed August 9, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *household appliances and accessories for household appliances,* (2) *audio electronic products and accessories for audio electronic products,* (3) *personal care appliances,* and (4) *materials and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3) above, (except commodities in bulk), between Ontario, CA, Brockport, NY, Asheboro, NC, Allentown, PA, and Seattle, WA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 142999 (Sub-17F), filed June 29, 1979. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, P.O. Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals,* (except in bulk) and *plastic articles,* (1) between Ashton, RI, on the one hand, and, on the other, points in CA, IL, IN, and TX, and (2) between Pasadena, TX, on the one hand, and, on the other, points in IL, IN, OH, NJ, MI, and RI, and (3) between Mapleton and Peoria, IL, and Gary, IN, on the one hand, and, on the other, points in CA, NJ, OH, PA, RI, and TX, under continuing contract(s) with Lonza, Inc., of Fair Lawn, NJ. (Hearing site: Washington, DC.)

MC 143059 (Sub-98F), filed June 29, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th and Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). Transporting (1) *iron and steel articles, and pipe,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Conroe, TX, and points in the United States (including AK but excluding HI), restricted to the transportation of traffic originating at or destined to the facilities of Fort Worth Pipe and Supply Co., at or near Conroe, TX. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143179 (Sub-19F), filed August 6, 1979. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (address same as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *urethane foam products,* from Mesquite, TX, and Batavia, IL, to Kansas City, MO, Obetz, OH, and Raymond, MS, under continuing contract(s) with Lifetime Foam Products, Inc., of Franklin Park, IL. (Hearing site: Omaha, NE.)

MC 143239 (Sub-6F), filed August 3, 1979. Applicant: JAMOUR, INC., d.b.a. QUICK COURIER SERVICE, 123 North 23rd Street, Philadelphia, PA 19103. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting *business reports, records and documents,* between points in Fairfield County, CT, and New Haven, Hampden, Hartford, and Norwich, CT, New York, NY, Glenridge, NJ, and Philadelphia, PA. (Hearing site: Philadelphia, PA or Washington, DC.)

MC 143498 (Sub-1F), filed June 29, 1979. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., North Carolina Hwy No. 220 South, P.O. Box 16707, Greensboro, NC 27406. Representative: William H. Borghesani, Jr., 1150 17th Street, N.W., Suite 1000, Washington, DC 20036. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textiles and textile products,* (A) from Roanoke Rapids, Wallace, Aberdeen, Greensboro, Hickory and Wagram, NC, and Clemson, Greenville, Slater, Wallace and Waltersboro, SC, to points in OK, NM, AZ, CO, UT, NV, CA, OR, and WA, and (B) between points in CA, OR, and WA, under continuing contract(s) with J. P. Stevens & Co., Inc., of Greensboro, NC. (Hearing site: Greensboro, NC.)

Note.—Dual operations may be involved.

MC 143708 (Sub-3F), filed July 2, 1979. Applicant: DUNES BULK TERMINAL COMPANY, INC., 3965 N. Meridian St., Indianapolis, IN 46208. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *such commodities,* as are dealt in or used by manufacturers and distributors of bakery products, between the facilities of West Baking Company at (a) Fremont, and Lake Station, IN, and (b) Norwalk, OH, on the one hand, and, on the other, points in AR, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NY, NC, OH, OK, PA, TN, TX, VA, and WV. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 143739 (Sub-18F), 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). Transporting *foodstuffs* (except in bulk), from the facilities of Anderson Clayton Foods, at (a) Jacksonville, IL, to points in FL, GA, IN, IA, KY, MI, MN, NE, ND, OH, SD, TN, TX, UT, and WI, and (b) Sherman, TX, to points in AR, CA, FL, GA, IL, KS, MN, MO, NE, OH, TN, and UT. (Hearing site: Minneapolis, MN or Des Moines, IA.)

MC 143739 (Sub-21F), filed July 2, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter (same address as applicant). Transporting (1) *paper and paper products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), between Marinette, Green Bay, Oconto Falls, and Fond du Lac, WI, on the one hand, and, on the other, points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, and SD. (Hearing site: Minneapolis, MN, or Des Moines, IA.)

MC 143739 (Sub-25F), filed August 7, 1979. Applicant: SHURSON TRUCKING COMPANY, INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter (same address as applicant). Transporting *confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, Division of American Home Products, at or near Chicago, IL, to points in IA, KS, MN, MO, and OH, restricted to the transportation of traffic originating at the named facilities at Chicago, IL, and

destined to the indicated destinations. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 144128 (Sub-1F), filed August 8, 1979. Applicant: ELLIOTT, INC. OF CLARKSVILLE, P.O. Box 342, Clarksville, VA 23927. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle in interstate of foreign commerce, over irregular routes, transporting *steel and steel articles*, from Sharon, PA, to the facilities of Westinghouse Electric Corp. at or near South Boston, VA, under continuing contract(s) with Westinghouse Electric Corp. of Pittsburgh, PA. (Hearing site: Pittsburgh, PA.)

MC 144609 (Sub-8F), filed August 1, 1979. Applicant: ADAN J. DOMINGUEZ, d.b.a. DOMINGUEZ BROS. PRODUCE CO., 1500 South Zarzamora St., San Antonio, TX 78207. Representative: Kenneth R. Hoffman, 801 Vaughn Bldg., Austin, TX 78701. Transporting *batteries*, from San Antonio, TX, to Anaheim and Santa Fe Springs, CA. (Hearing site: San Antonio, TX.)

MC 144888 (Sub-12F), filed August 3, 1979. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 130 Somerset Street, Somerville, NJ 08876 Representative: Joel J. Nagel, 19 Back Drive, Edison, NJ 08817. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by wholesale and retail distributors of chemicals, (except commodities in bulk), between points in CT, DE, FL, GA, ME, MD, NJ, NY, PA, and VA, on the one hand, and, on the other, points in AL, GA, MD, MI, NC, OH, SC, TN, VA, and FL, under continuing contract(s) with Moreland McKesson Chemicals Co., of Spartanburg, SC. (Hearing site: Newark, NJ, or New York, NY.)

MC 145359 (Sub-10F), filed August 1, 1979. Applicant: THERMO TRANSPORT, INC., 156 East Market St., Indianapolis, IN 46204. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *iron and steel articles*, and *aluminum articles*, from those points in the United States in and east of ND, SD, NE, KS, OK, and TX, to Los Angeles, CA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 145468 (Sub-18F), filed August 1, 1979. Applicant: K.S.S. TRANSPORTATION CORP., P.O. Box 3052, North Brunswick, NJ 08402. Representative: Elaine M. Conway, 10 South LaSalle St., Chicago, IL 60603. Transporting *frozen foods*, from the facilities of Beatrice Foods Co., at or near Archbold, OH, to points in AL, AR, FL, GA, MS, NC, LA, OK, SC, TN, and TX. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 145768 (Sub-3F), filed August 1, 1979. Applicant: KREILKAMP TRUCKING, INC., Rural Route #1, Allenton, WI 53002. Representative: Nancy J. Johnson, 103 East Washington St., Crandon, WI 54520. Transporting (1)(a) *cabinets*, and (b) *accessories and parts* for cabinets, from the facilities of Maysteel Products Corporation, at or near Mayville, WI, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of cabinets, in the reverse direction. (Hearing site: Madison or Milwaukee, WI.)

MC 146258 (Sub-10F), filed August 1, 1979. Applicant: M. R. BRUTON, INC., P.O. Box 547, Cuba, MO 65453. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *iron and steel articles* (except commodities in bulk), from the facilities of Keystone Consolidated Industries, Inc., at Peoria, IL, to points in AZ, CA, CO, ID, MT, NE, NV, NM, OR, TX, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 146529 (Sub-2F), filed August 6, 1979. Applicant: RANDOLPH S. MARR, 25 Oakdale Drive, Springfield, IL 62707. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from Festus and St. Louis, MO, to Chatham, Curran, and Springfield, IL, under continuing contract(s) with Barker-Lubin, Co., of Springfield, IL.

MC 147009 (Sub-2F), filed July 2, 1979. Applicant: DEAN HUGHS, P.O. Box 98, New Berlin, IL 62670. Representative: Douglas G. Brown, The INB Center—Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *paper and paper products*, from Terre Haute, IN, to points in Adams, Bond, Brown, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cumberland, DeWitt, Douglas, Effingham, Fayette, Ford, Fulton, Greene, Hancock, Jasper, Jersey, Knox, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McLean, Menard, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, St. Clair, Sangamon, Schuyler, Scott, Shelby, Tazewell, Warren, and Woodford Counties, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 147348 (Sub-2F), filed August 9, 1979. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. 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 Little Rock, AR, and points in Clark, Ashley, Sebastian, Hot Spring, Garland, Saline, Jefferson, Arkansas, Lonoke, Perry, Monroe, White, Jackson, Faulkner, Pope, Johnson, Conway, Crawford, Craighead, Union, Drew, Bradley, Calhoun, St. Francis, Cross, Benton, Washington, Sevier, Carroll, Boone, Baxter, Van Buren, Cleburne, Independence, Lawrence, Clay, Greene, Mississippi, Crittenden, Woodruff, Prairie, Desha, Lincoln, Chicot, Ouachita, Nevada, Hempstead, Miller, Dallas, Columbia, Franklin, and Phillips Counties, AR, restricted to the transportation of traffic having a prior or subsequent movement by rail in piggyback service. (Hearing site: Little Rock, AR.)

MC 147698 (Sub-1F), filed August 2, 1979. Applicant: J.L.M.S., INC., 115 Moonachie Ave., Moonachie, NJ 07074. Representative: Michael R. Werner, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting (1) *duplicating machines*, (2) *accessories* for duplicating machines, and (3) *materials, supplies, and equipment* used in the manufacture, installation, lease, sale, and distribution of duplicating machines, (except commodities in bulk), between Secaucus, NJ, on the one hand, and, on the other, points in MA and NY. (Hearing site: New York, NY.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 147839 (Sub-1F), filed August 3, 1979. Applicant: BIB ENTERPRISES, INC., 401 West 9th South Street, Salt Lake City, UT 84111. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fertilizer and pesticides*, and *materials and supplies* used in the manufacture and distribution of fertilizer and

pesticides, (a) from points in CA, OR, and WA to points in Salt Lake County, UT, and (b) from points in Salt Lake County, UT, to points in AZ, CO, ID, MT, NM, NV, WA, and WY, and (2) *snow and ice melter,* in packages, from points in Salt Lake County, UT, to points in WI, OK, KS, MO, IA, IL, ND, SD, NE, and MN, under continuing contract(s) with Morgro Chemical, Inc., of Salt Lake City, UT. (Hearing site: Salt Lake City, UT.)

MC 147839 (Sub-2F), filed August 3, 1979. Applicant: BIB ENTERPRISES, INC., 401 West 9th South Street, Salt Lake City, UT 84111. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metal for recycling,* from Salt Lake City, Ogden, and Provo, UT, to points in the United States, (except AK and HI), under continuing contract(s) with Pepper's Allied Metals, Co., of Salt lake City, UT. (Hearing site: Salt Lake City, UT.)

MC 147839 (Sub-6F), filed August 6, 1979. Applicant: BIB ENTERPRISES, INC., 401 West 9th South Street, Salt Lake City, UT 84111. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* (a) from points in CA, CO, MO, NE, OR, and WA, to Salt Lake City, UT, and (b) from Salt Lake City, UT, to Rock Springs, WY, under continuing contract(s) with Rockwest Steel Corporation, of Salt Lake City, UT.

MC 147949 (Sub-1F), filed August 6, 1979. Applicant: ROEDER CARTAGE CO., INC., 175 Mumaugh Road, Lima, OH 45804. Representative: Richard H. Brandon, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sulphuric acid,* and *sulfur dioxide,* in bulk, in tank vehicles, between Cairo and Oregon, OH, on the one hand, and, on the other, points in IN, KY, MI, and WV, under continuing contract(s) with Coulton Chemical Corporation, of Sylvania, OH. (Hearing site: Columbus, OH.)

MC 148069F filed August 6, 1979. Applicant: SUSQUEHANNA TRANSIT COMPANY, P.O. Box U, Avis, PA 17721. Representative: Herbert R. Nurick, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Transporting *passengers and their baggage,* in the same vehicle with passengers, in round trip charter and special operations, beginning and ending at points in Clinton County, PA, and extending to points in the United States (including AK but excluding HI). (Hearing site: Harrisburg, PA, or Pittsburgh, PA.)

MC 148568F, filed August 7, 1979. Applicant: RAYMOND BUIS, d.b.a., BUIS TRUCKING, 110 Tandy Avenue, Somerset, KY 42501. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer,* in bulk, from the facilities of CF Industries, Inc., Terre Haute Nitrogen Complex, at or near Terre Haute, IN, to points in KY, under continuing contract(s) with Southern States Cooperative, Inc., of Louisville, KY. (Hearing site: Louisville, KY.)

Note.—Dual operations may be involved.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4702 Filed 2-13-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation

The Police Division of the National Institute of Justice announces a competitive research project to study "private security" in the United States. The research is expected to:

(1) develop information on the general character of the private security industry in the United States, updating previous work completed on the subject

(2) describe the contribution which private security does make to law enforcement and order maintenance and to identify improvement opportunities

(3) describe the relationship between private security and law enforcement agencies and to develop recommendations for improving operating relationships.

A 12–18 month grant or cooperative agreement will be awarded at a maximum funding level of $225,000.

The solicitation requests submission of pre-proposals and requests that submitting organizations have experience in and resource capabilities for designing and conducting research on this topic. Additional qualifications include knowledge of the substantive areas of private policing. To maximize competition for this award both profit-making and non-profit organizations are eligible.

In order to be considered for funding, all proposals must be postmarked no later than March 28, 1980.

Copies of the Solicitation can be obtained by sending a mailing lable to: Reseach Solicitation—Private Security Project, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: February 4, 1980.

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, NIJ.

[FR Doc. 80-4730 Filed 2-13-80; 8:45 am]

BILLING CODE 4410-18-M

Notice of Solicitation

The National Institute of Justice announces a competitive research grant to identify those insights social science research may provide trial practitioners about the preparation for and presentation of evidentiary information in criminal trials. The objective is to investigate practices that might result in more accurate, complete and reliable factural information and more persuasive legal argument.

The solicitation asks for the submission of preliminary proposals. In order to be considered, all pre-proposals must be postmarked no later than April 11, 1980. The project is scheduled to run for 18 months; the funding level will be approximately $200,000.

Copies of the solicitation can be obtained by contacting: National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850. Re: The Implications of Social Science Research for Criminal Trial Practices (No. 80–122).

To maximize competition, for this award, both profit-making and non-profit organizations are eligible to apply.

Dated: February 4, 1980.

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, NIJ.

[FR Doc. 80-4732 Filed 2-13-80; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Advisory Committee; Notice of Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: March 3 & 4, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1025. Purpose: To review the applications submitted to the Research Tools Program of the National Endowment for the Humanities for projects in Classics

and Medieval Subjects beginning June 1, 1980.

2. Date: March 6 & 7, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 807. Purpose: To review the applications submitted to the Research Editions Program of the National Endowment for the Humanities for projects in Non-American Editing beginning June 1, 1980.
3. Date: March 6 & 7, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1134. Purpose: To review the applications submitted to the Research Resources Program of the National Endowment for the Humanities for projects in Special Collections beginning July 1, 1980.
4. Date: March 13 & 14, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1023–25. Purpose: To review Higher Education/Regional & National applications submitted to the National Endowment for the Humanities for projects beginning after July, 1980.
5. Date: March 13 & 14, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 807. Purpose: To review the applications submitted to the Research Editions Program of the National Endowment for the Humanities for projects in American Editing beginning June 1, 1980.
6. Date: March 17 & 18, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1134. Purpose: To review the applications submitted to the Research Tools Program of the National Endowment for the Humanities for projects in Literature beginning June 1, 1980.
7. Date: March 27 & 28, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1134. Purpose: To review applications in History that have been submitted to the General Research Program of the National Endowment for the Humanities for projects beginning after June 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1979, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

If you desire more specific information, contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80–4708 Filed 2–13–80; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee on Science and Society; 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 and Society.

Date, Time, and Place: March 5–6, 1980, 9:00 a.m. to 5:00 p.m., Room 540, 1800 G Street, N.W., Washington, D.C. 20550.

Contact Person: Margaret Hunter, Office of Science and Society, Directorate for Science Education, National Science Foundation, Room W–680, Washington, D.C. 20550, Telephone (202) 282–7770.

Type of Meeting: Open.

Purpose of Committee: To identify problems and priorities and to increase the effectiveness of the Office of Science and Society and its constituent programs.

Agenda: (1) Current activities and status of programs; (2) discussion of Oversight Subcommittee activities; and (3) objectives and goals of the Office of Science and Society.

Summary Minutes: May be obtained from Margaret Hunter, contact person at the address given above.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80–4803 Filed 2–13–80; 8:45 am]

BILLING CODE 7555–01–M

Advisory Council, Task Group #10; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Task Group #10 of the NSF Advisory Council.

Place: Room 523, National Science Foundation, 1800 G. Street, N.W., Washington D.C. 20550.

Date: Friday, March 7, 1980.

Time: 9:00 a.m. until 5:00 p.m.

Type of meeting: Open.

Contact person: Dr. Donald Speer, NSF Liaison, Task Group #10 of the NSF Advisory Council, National Science Foundation, Room 305, 1800 G. Street, N.W., Washington, D.C. 20550. Telephone (202) 632–4270.

Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the contact person at above stated address.

Agenda: The Task Group is asked to determine if any evidence exists that especially adventurous research which might yield major "breakthrough" advances is not being encouraged and funded at NSF. If so, the Task Group should suggest procedures and mechanisms within NSF which will encourage the submission and selection of more such proposals.

M. Rebecca Winkler,

Committee Management Coordinator.

February 11, 1980.

[FR Doc. 80–4808 Filed 2–13–80; 8:45 am]

BILLING CODE 7555–01–M

Alan T. Waterman Award Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Alan T. Waterman Award Committee.

Date: March 12, 1980.

Time: 9:00 a.m.

Type of meeting: Closed.

Place: Room 540, National Science Foundation, 1800 G Street, NW. Washington, D.C.

Contact person: Lois J. Hamaty, Executive Secretary, National Science Foundation, Rm. 511, Washington, D.C. 20550 telephone 202–632–5394.

Purpose of committee: To provide advice and recommendations to the Director, NSF, and the National Science Board in the selection of the Alan T. Waterman Award recipient.

Agenda: To review nominations, with supporting documentation, as part of the selection process for the Award.

Reason for closing: The nominations being reviewed include information of a personal nature. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: The determination made by the Director of the National Science Foundation on February 8, 1980, pursuant to provisions of section 10(d) of Pub. L. 92–463.

M. Rebecca Winkler,

Committee Management Coordinator.

February 11, 1980.

[FR Doc. 80–4802 Filed 2–13–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee for Science and Technology To Aid the Handicapped of the Advisory Committee for Engineering and Applied Science; 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 on Science and Technology to Aid the Handicapped of the Advisory Committee for Engineering and Applied Science.

Date and time: March 6, 1980 9:00 A.M. to 5:00 P.M. March 7, 1980 9:00 A.M. to 3:30 P.M.

Place: Park Central Hotel, 705 18th St., NW., Washington, D.C. (Room number will be posted in the lobby)

Type of meeting: Closed—9:00 P.M.–5:00 P.M. March 6; 9:00 A.M.–12:00 P.M. Open—1:00 P.M.–3:30 P.M. March 7.

Contact person: Dr. Donald McNeal, Program Manager, Program for Science and Technology to Aid the Handicapped, Room 1134B, NSF 1800 G Street, NW, Washington, D.C. 20550, telephone 202–632–3027.

Summary of minutes: May be obtained from the contact person, Dr. McNeal, at the above stated address.

Purpose of subcommittee: To provide advice and recommendations concerning support for research and research-related projects.

Agenda: Closed—Thursday, March 6, 1980; Friday, March 7, 1980 until 12:00 P.M. Review and evaluation of unsolicited research proposals.

Open—Friday, March 7, 1980 1:00 P.M. until 3:30 P.M.—Discussion of program objectives and directions to be undertaken in the coming year.

Reason for closing: The proposals being reviewed include information of 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 Office 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 9, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

February 11, 1980.

[FR Doc. 80–4806 Filed 2–13–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee for Sociology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Sociology of the Advisory Committee for Social and Economic Science.

Date and time: March 6–7, 1980, Thursday—9:00 am to 6:00 pm, Friday—9:00 am to 4:00 pm.

Place: National Science Foundation, 1800 G Street, N.W., Washington, D.C., Room 338.

Type of meeting: Closed.

Contact person: Roland J. Liebert, Program Director for Sociology, Room 316, National Science Foundation, Washington, D.C. 20550 Telephone: (202) 632–4204.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in the Sociology Program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for the awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidental 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: The determination 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, of July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

February 11, 1980.

[FR Doc. 80–4805 Filed 2–13–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Economics; 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 on Economics of the Advisory Committee for Social Sciences.

Date and time: March 7–8, 1980, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 628, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. James H. Blackman, Program Director for Economics, Room 628, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632–5968.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in economics.

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. 92–462. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

February 11, 1980.

[FR Doc. 80–4807 Filed 2–13–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Metallurgy and Materials of the Materials Research Advisory Committee; 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 on Metallurgy and Materials of the Materials Research Advisory Committee.

Date: March 10 and 11, 1980.

Time: 9:00 am–5:00 pm each day.

Place: Room 338, National Science Foundation, 1800 G. Street, NW, Washington, DC 20550.

Type of meeting: Open, both days.

Contact person: Dr. Ben A. Wilcox, Metallurgy and Materials Section, Room 412, National Science Foundation, Washington, DC 20550, telephone: (202) 632–7406.

Purpose of subcommittee: To provide advice and recommendations concerning support of research in Metallurgy and Materials.

Agenda: March 10, 1980

9:00AM: Introductory remarks, comments about the Mathematical and Physical Sciences Directorate, and overview of the Division of Materials Research
10:00AM: Coffee break
10:15AM: Oversight review of the Metallurgy Program. Report of ad hoc oversight review committee.
12:00Noon: Lunch
1:00PM: Continuation of oversight review of the Metallurgy Program.
2:00PM: Discussion of Industry/University Co-operative Research Activity.
2:30PM: Coffee break.
2:45PM: Discussion of trends, opportunities and needs for support of Metallurgy, Polymers, and Ceramics: I. research grant support.
5:00PM: Adjourn.

Agenda: March 11, 1980

9:00AM: Final subcommittee report on review of the Metallurgy Program.
9:30AM: Discussion of trends, opportunities, and needs for support of Metallurgy, Polymers and Ceramics: II. instrumentation support.
10:30AM: Coffee break.
10:45AM: Discussion of instrumentation support continued.
12:00Noon: Lunch
1:00PM: Discussion of instrumentation support continued.
2:00PM: Discussion of trends, opportunities and needs for support of Metallurgy, Polymers and Ceramics: III. Substitute materials.

5:00PM: Adjourn.

M. R. Winkler,

Committee Management Coordinator.

February 11, 1980.

[FR Doc. 80-4804 Filed 2-13-80; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-7]

Reports, Safety Recommendations and Responses; Availability

Aviation Special Study

Light Twin-Engine Aircraft Accidents Following Engine Failures, 1972–1976 (NTSB–AAS–79–2).—The National Transportation Safety Board on February 5 made available its special study on data collected during the investigation of 477 light-twin aircraft accidents from 1972 through 1976 which involved engine failure or malfunction. The complete records of particularly pertinent accidents were studied in detail and pilot handbooks and other sources which provide information on engine-out performance and emergency procedures in light-twins were reviewed. A limited number of interviews with pilots and instructors were conducted and Federal Aviation Administration training regulations were also studied.

A major conclusion of the study is that many of these accidents involved a lack of pilot proficiency in managing a light-twin after loss of power in one engine. The Board found that often these accidents involve some degree of panic, probably related to inadequate immediate recall of the exact emergency procedures or lack of confidence in one's ability to execute emergency procedures. These symptoms are indicative of insufficient recurrent training in engine-failure emergencies.

Based on the results of this study, the Safety Board on December 31 recommended that FAA: Renew pilot handbooks for light twin-engine aircraft to determine if there is a need for any additional explanatory information—especially regarding single engine performance and normal operation of the aircraft below V_{mc}, the minimum speed at which the airplane can be controlled on one engine (recommendation A–79–94); disseminate to pilots, flight instructors, and FAA inspectors on a periodic basis current information on how to manage light twin-engine aircraft following an engine failure (A–79–95); amend Federal regulations to require that an airman who wishes to act as pilot-in-command of a multiengine aircraft must have successfully completed a flight review in a multiengine aircraft within the last 24 months (A–79–96); and require that a pilot during the multiengine flight review demonstrate maneuvers that are required for a multiengine proficiency check—especially those maneuvers related to power loss (A–79–97). (See also 45 FR 3412, January 17, 1980.)

Highway Accident Report

Multiple Vehicle Median Barrier Crossover and Collision, Grand Central Parkway, New York, New York, June 8, 1979 (NTSB–HAR–79–8).—About 11:05 p.m. last June 8, a Buick sedan, with eight occupants, was westbound on the Grand Central Parkway in New York City. The Buick, while in the acceleration lane of the 188th Street westbound, parkway entrance ramp, passed another westbound vehicle at a high rate of speed. Upon reentering the parkway through lanes, the Buick veered out of control to the left, vaulted the median guardrail, and collided with three eastbound passenger cars. Two passengers in the Buick and the drivers of two of the eastbound cars were killed; 10 persons were injured.

The Safety Board determined that the probable cause of this accident was the Buick driver's loss of vehicle control which resulted from driver intoxication, excessive speed, and sharp steering maneuvers while passing another westbound vehicle. Contributing to the severity of the accident was the failure of the substandard median barrier system to contain the Buick which vaulted into the opposing lanes of traffic.

As a result of its investigation of this accident, the Safety Board on January 25 issued safety recommendation letters to the New York State Department of Transportation (H–79–48); to the New York City Department of Transportation (H–79–49); to the Governor, New York State (H–79–50); to the National Highway Traffic Safety Administration (H–79–51); and to the Police Commissioner, New York City Police Department (H–79–52). (Full text of these recommendations was published at 45 FR 8389, February 7, 1980.)

Aviation Safety Recommendation Letters

A–80–11.—Last September 29 a Cessna Model 120, N72504, crashed near Vicksburg, Miss., after the right wing separated in flight. Both persons on board, an instructor pilot and his student, were killed. Investigation disclosed that the wing separated when the forward wing strut, upper rod-end spherical fitting failed. Metallurgical examination disclosed that the filling was severely pitted and corroded. The fitting apparently had become pitted and corroded over a long period of time and, at the location of failure, corrosion was found to have penetrated almost the entire thickness of the fitting.

The Cessna involved was manufactured in 1946 and was last inspected in February 1979. Although the external location of the spherical fitting makes it physically and visually accessible, evidence of corrosive deterioration, cracking, or elongation apparently was not detected during the inspection. Paint, which covered the lower portion of the fitting in the area of the failure, may have partially obscured the corrosion. The Safety Board notes that wing strut fittings similar to the one which failed are also installed on many Cessna Model 140 airplanes. As of December 31, 1978, a total of 3,486 Cessna Model 120/140 aircraft were registered with the Federal Aviation Administration, the newest of which are approaching 30 years in service. Therefore, on February 5 the Safety Board recommended that FAA:

> Issue an Airworthiness Directive applicable to the Cessna Model 120 and 140 airplanes, requiring an immediate inspection of wing strut upper rod-end spherical fittings for corrosion, cracking, or elongation. If any of these conditions are detected, the fittings should be relaced before further flight. (Class I, Urgent Action) (A–80–11)

A–80–12.—Recently, the Safety Board received a copy of a letter sent by an air carrier check pilot to an FAA operations inspector. The letter described certain potentially critical flight characteristics of the deHavilland Twin Otter, DHC–6 airplane, which involve the proper pitch attitude and airspeed during go-around maneuvers in the short takeoff and landing full-flap configuration.

The Safety Board states that a go-around or balked landing in the DHC–6 with full-flaps (37½°) must be performed with the nose below the horizon, avoiding rotation of the nose of the airplane above the horizon. An excessive initial pitch attitude or a very rapid pitch change, or both, results in rapid deterioration of airspeed, a stall and a loss of control. The nose of the airplane must be kept below the actual flightpath until the flaps have been retracted.

A DHC–6 pilot accustomed to conventional nose-high pitch attitudes during go-around may not be fully appreciative of or familiar with the relatively nose-low, short takeoff and landing pitch requirements of the DHC–6 during a full-flap go-around. The Board notes that currently there is no precautionary or instructive material in

the DHC–6 flight manual relating specifically to this phase of flight. DeHavilland Aircraft of Canada, Ltd., has informed the Safety Board of its intention to provide such supplemental information in the manual in the near future. However, according to the Ministry of Transport, Canada, the certifying authority for the DHC–6, some flight testing of the airplane will be required before the new information is approved. In the interim, the Safety Board believes that all DHC–6 operators should be advised explicitly of the unique and critical pitch attitude requirements during a full-flap go-around and of the need to maintain the recommended go-around airspeed. Therefore, the Safety Board on February 6 recommended that FAA:

Immediately notify all DHC–6 operators of the aircraft's unique operational requirements during a full-flap go-around, and of the need for maintaining a nose-down airplane pitch attitude and adequate airspeed during this phase of flight. (Class II, Priority Action) (A–80–12)

Response to Safety Recommendations

Aviation

A–76–37.—Letter of January 30 from the Federal Aviation Administration updates action taken concerning a recommendation issued April 1, 1976, as a result of investigation of the crash of an Eastern Air Lines Boeing 727 during a precision instrument approach to John F. Kennedy International Airport, Jamaica, N.Y., on June 24, 1975. The recommendation asked FAA to revise appropriate air traffic control procedures to specify that the location and severity of thunderstorms be considered in the criteria for selecting active runways.

FAA notes that its letter of July 7, 1976, advised the Safety Board that runway selection on the basis of other than known winds actually affecting the runway in use could very easily result in operational conditions not acceptable by users and, in fact, have an adverse effect/impact on safety in the system. FAA's January 30 letter expresses the belief that the present air traffic procedures, which require aircraft to be informed of phenomena likely to produce an adverse safety effect and those requiring avoidance of known areas of possible hazard to safety, provide the best current means of providing pilots the information they need to assess and determine the most appropriate action for their operation. FAA says decisions of this nature must remain with the pilot. To further assist pilots in making this determination, FAA has taken the following actions:

1. *Low Level Wind Shear Alert System (LLWSAS).*—Approximately 20 LLWSAS's are operational. A total of 58 systems are scheduled for installation by the end of fiscal year 1983, which provides the centerfield wind, wind shear and in many instances, runway end wind information.

2. *ATC Procedures Handbook, 7110.65A.*—ATC procedures for the provision of departure and arrival information and low level wind shear advisories now make provisions for the use of LLWSAS equipment. (A copy is attached to FAA's January 30 letter.)

3. *Facility Operations Handbook.*—Changes to the Facility Operations and Administration Handbook 72103E (copy attached) provide for improved collection and dissemination of SIGMET's and PIREP's.

4. *Center Weather Service Units.*—Three meteorologists are presently assigned to permanent duties in 13 air route traffic control centers (ARTCC). Eight additional ARTCC's are programmed to receive three meteorologists plus associated equipment in mid-fiscal year 1980. The meteorologists assigned work directly in support of the ARTCC and service all terminal and flight service station facilities within the ARTCC area of jurisdiction.

A–77–52.—Also on January 30 FAA updated the status of action taken concerning a recommendation issued following investigation of the near midair collision which occurred near Appleton, Ohio, November 17, 1976, involving Trans World Airlines Flights 373 (a B–727) and 516 (a DC–9). The recommendation asked FAA to amend language of ATP Handbook 7110.65 to specify that a controller who issues an altitude assignment and/or a vector heading assignment to an aircraft in flight be required to request readback of the clearance if he does not receive one from the crew. Pilot acknowledgment without readback should not be accepted by the controller.

In response FAA reports that on July 1, 1977, the Airman's Information Manual (AIM) was revised to recommend that pilots of airborne aircraft read back those parts of air traffic control (ATC) clearances/instructions containing altitude assignments or vectors. This action was taken prior to issuance of recommendation A–77–52 on July 25, 1977. FAA's December 23, 1977, response to this recommendation stated that a preliminary study would be made to determine the feasibility of issuing notice of proposed rulemaking mandating pilot readback of altitudes and vectors. FAA states that initial study did not conclusively indicate a need for rulemaking action.

FAA also examined system errors involving airborne aircraft over a 3-year period to determine the errors in which omission of a readback was a causative factor. During this period there were 1,652 system errors, *one* involving a pilot's failure to read back an altitude/vector and nine involving a pilot's failure to acknowledge a clearance. FAA says that none of the remaining 1,652 system errors could be attributed to failure to read back altitudes/vectors. Furthermore, an examination of transcripts of 1 hour's actual traffic from 11 air route traffic control centers and 22 terminal facilities indicated that most pilots are consistently reading back altitudes and vectors. Many air carriers either recommend or require that their pilots read back ATC clearances/instructions. In view of these circumstances FAA concludes that rulemaking action is not warranted at this time, and no change to the controller's handbook (7110.65B) is required.

Intermodal

I–79–12.—The Research and Special Programs Administration, U.S. Department of Transportation, on January 21 responded to a recommendation issued last October 2 predicated on investigation of the Louisville & Nashville Railroad Company freight train derailment and puncture of hazardous materials tank cars which occurred April 8, 1979, at Crestview, Fla. The recommendation asked RSPA to expand current research into "new approaches for controlling pressurized liquefied flammable gas releases" from breached tanks on bulk transport vehicles to include control of pressurized liquefied nonflammable ammonia and chlorine gas releases. (See 44 FR 58821, October 11, 1979.)

The response indicates that both RSPA's Materials Transportation Bureau and the current contractor for the control of liquefied flammable gas releases research agree for the need to include research for control of pressurized, liquefied nonflammable gases. Current research can be expanded to include ammonia when it is shipped in containers suitable for either flammable or nonflammable gases. Chlorine gases are transported in different types of tanks and require different or unusual measures. RSPA proposes that the study proceed as planned with the study of anhydrous ammonia being included whenever possible. After the contractor's interim report is reviewed, MTB will evaluate the alternatives of adding other nonflammable gas studies to the existing contract or to solicit a separate request for proposals for a new study. RSPA will advise the Safety Board of its decision after the interim report evaluation.

Marine

M–76–9, M–77–6, and M–78–8.—Under date of January 11, 1980, U.S. Coast Guard addressed the issue of its role in assisting local port authorities with firefighting capability. While the Coast Guard letter does not refer to specific recommendations, the letter appears to be applicable to—

Recommendation M–76–9, issued March 2, 1976, as a result of investigation of the collision and fire of SS C. V. SEA WITCH and SS ESSO BRUSSELS, New York Harbor, June 2, 1973, asking Coast Guard to expedite implementation of the Safety Board's 1972 recommendation to prepare emergency contingency plans to respond to catastrophic accidents involving hazardous materials for those waterways which carry large quantities of these materials, and to give priority to the contingency plan for New York Harbor.

Recommendation M–77–6, issued June 15, 1977, following investigation of the SS KEY TRADER/SS BAUNE collision in the Mississippi River, January 18, 1974, asking Coast Guard to study the adequacy of its capability to fight major marine fires on remote waterways, where the local firefighting capability is inadequate and establish an adequate firefighting capability for such areas.

Recommendation M–78–8, issued March 4, 1978, following investigation of the TANK BARGE 924 explosion and fire at Greenville, Miss., November 13, 1975, asking Coast to initiate contingency plans for responding to major marine casualties in the Greenville, Miss., area, the plans to require that emergency communication be established, that appropriate training be provided, and that firefighting resources be coordinated.

In its letter of January 11, Coast Guard questions its authority to assume the State/local role of firefighting and discusses problems of budget and resource related to a primary firefighting role. Coast Guard concludes that port area firefighting is, and should remain, a local responsibility and that the Coast Guard should act in a secondary role to provide assistance to local port authorities to the extent that regular resources are available.

Coast Guard on February 18, 1977, advised the Safety Board with reference to recommendation M–76–9 that contingency plans for accidents involving hazardous materials are presently in various stages of development at Coast Guard field units and that New York is currently developing their plan.

The Safety Board last July 23, in commenting on Coast Guard's response of May 30, 1979, to recommendation M–77–6 (44 FR 42350, July 19, 1979) noted that Coast Guard has maintained its position that it is doing all that can be done with current resources. The Board also noted that the May 30 response continues to stress the primary role of the local jurisdictions in maintaining adequate marine fire emergency response capability with assistance as needed from the Coast Guard. The Board stated its firm belief that for remote areas along navigable waters carrying ocean-going vessels, Coast Guard has a leadership responsibility for developing multijurisdictional fire contingency plans.

With respect to recommendation M–78–8, the Safety Board on July 23, 1978, commented on Coast Guard's response of August 11, 1978 (43 FR 41103, September 14, 1978). The Board noted that Coast Guard's discussion of the Federal-local relationship in handling marine fires or other catastrophies is relevant. However, the Board said it was firmly convinced that Coast Guard has a direct interest in developing a coordinated and highly responsive disaster mitigation plan. Without Coast Guard leadership in this matter, the Board said it is doubtful that any effective capability will be developed to respond to marine fires or other catastrophies. Statutory authority does not preclude cooperative effort. The Board recommended that Coast Guard initiate a cooperative effort in the Greenville, Miss., area by the local authorities, the Army Corps of Engineers, and others to develop an areawide disaster mitigation program to include emergency communication, resources coordination, and establishment of leadership responsibilities.

M–78–31 and 32.—The American Bureau of Shipping on January 29, 1979, responded to recommendations issued June 1, 1978, following investigation of the sinking of the Great Lakes bulk cargo vessel, SS EDMUND FITZGERALD, in eastern Lake Superior, November 10, 1975. The recommendations asked the Bureau to determine, in conjunction with the U.S. Coast Guard, (1) the limiting sea state applicable to the design of Great Lakes bulk cargo vessels including freeboard and longitudinal strength (M–78–31), and (2) the design criteria used to determine the structural adequacy of hatch covers (M–78–32). (See 43 FR 24916, June 8, 1978.)

In response the Bureau reports that it has developed rules for longitudinal strength of Great Lakes vessels which have been reviewed and accepted by the U.S. Coast Guard and the Canadian Coast Guard as a structural standard. These rules are based on a set of wave spectra which represent various Great Lakes environmental states, including a wave height greater than that ever recorded on the Great Lakes. The Bureau says that this strength standard was developed with the same engineering principles as that employed for ocean-going vessels and provides sufficient margin for the worst storms which may be expected. The Bureau has investigated its survey reports on the Great Lakes bulk carriers and advises that existing hatch cover designs are structurally adequate for the current criteria as published in 46 CFR 45.105. The Bureau finds no hatch covers which fail to meet this criteria.

Railroad

R–77–32 through 35.—The Federal Railroad Administration on January 17, 1980, responded to the Safety Board's letter of July 20, 1978, which commented on FRA's initial response of July 5, 1978, to recommendations concerning track safety standards. (See 43 FR 35567, August 10, 1978.) The recommendations were issued following investigation of the derailment of an Amtrak train on the Burlington Northern near Ralston, Nebr., December 16, 1976.

FRA with its January 17 letter provided the Safety Board with a copy of the report, "Lateral Resistance of New and Relay Red Oak Crossties," which resulted from FRA's joint venture with the U.S. Department of Agriculture Forest Products Laboratory to investigate the ability of both old and new crossties to withstand lateral loads. FRA states that test results and conclusions as detailed in the technical report indicate that there is no appreciable difference in lateral load resistance between the old and new crossties, and that these results do not warrant a change in the track safety standards. A review of current technology has failed to produce evidence that would justify changes to 213.53 gage, and FRA continues to believe the existing gage requirement is adequate and no change will be recommended.

Further, FRA states that there is no rail industry consensus as to what constitutes a defective tie. This is due to the inability to objectively evaluate a crosstie by its in-track appearance. FRA notes that thus far, efforts to establish methods for determining the effectiveness of crossties that would eliminate subjective judgment have been unsuccessful. At present there are no research projects being conducted in this area, nor does FRA anticipate any additional research effort in the immediate future.

Note.—Single copies of the Safety Board's accident reports and special studies are available without charge, as long as limited supplies last. Copies of recommendation letters and related correspondence are also

provided free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports and special studies may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

February 8, 1980.

[FR Doc. 80-9644 Filed 2-13-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-409]

Dairyland Power Cooperative; Issuance of Amendment to Provisional Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Provisional Operating License No. DPR-45, issued to Dairyland Power Cooperative (the licensee), which amended the license and its appended Technical Specifications for operation of the La Crosse Boiling Water Reactor (the facility) located in Vernon County, Wisconsin. The amendment is effective as of its date of issuance.

The amendment approves the design concept of the crash pad and modifies the Technical Specifications to allow increase in the capacity of the spent fuel storage pool from 134 to 440 fuel assemblies, in accordance with the Atomic Safety and Licensing Board's (ASLB) Initial Decision dated January 10, 1980, as modified January 17, 1980. The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

Moreover, the amendment approves flexible license provisions and Technical Specifications for the receipt, possession and use of special nuclear, byproduct and source materials.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

On May 25, 1978, the Commission published notice in the **Federal Register**, 43 FR 22462 that the Commission was considering issuance of an amendment to the provisional operating license which would allow modification of the spent fuel storage pool at the facility, and that an opportunity for intervention and hearing was being provided for those making a sufficient showing of interest in the proceeding. Subsequently the Coulee Region Energy Coalition (CREC) petitioned to intervene and requested a hearing. The petitioner was admitted as a party and a notice of future evidentiary hearing was published on August 4, 1978 (43 FR 34564). CREC, the intervenor, submitted contentions, five of which were admitted for litigation. The Commission's staff and the licensee submitted motions for Summary Disposition of all the contentions and the motions were granted on September 21, 1979, at the prehearing conference (Prehearing Conference Tr. 393,417).

Prior public notice of consideration for the approval of the flexible materials provisions and the related Technical Specifications was not required since this portion of the action does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications pertaining to the spent fuel pool expansion and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Draft Environmental Statement for the facility issued in June 1976.

The Commission has determined that the flexible materials provisions and the related Technical Specifications will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this portion of the action.

For further details with respect to this action, see (1) the application for amendment dated April 20, 1978, and letters dated June 7, July 11, August 7, September 25, October 4, October 26, November 20 and 29, 1978; January 4, January 31, February 14, March 1, May 17, June 26, July 11, and August 6, 1979, (2) ASLB's Initial Decision dated January 10, 1980, and a correction thereto dated January 17, 1980, (3) Amendment No. 18 to License No. DPR-45, including the Commission's letter of transmittal, (4) the Commission's related Safety Evaluation, dated July 13, 1979, as revised January, 1980, and (5) the Commission's Environmental Impact Appraisal, dated July 13, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin, 54601. A copy of items (2), (3), (4) and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of February, 1980.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 80-4715 Filed 2-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-367 (Construction Permit Extension)]

Northern Indiana Public Service Co.; Order Setting Special Pre-Hearing Conference

In the matter of Northern Indiana Public Service Co., (Bailly Generating Station, Nuclear 1).

On November 30, 1979, the Nuclear Regulatory Commission published in the **Federal Register** a Notice of Opportunity for Hearing on a proposed amendment to Construction Permit No. CPPR-104 issued to Northern Indiana Public Service Company (the permittee) for the construction of the Bailly Generating Station, Nuclear 1 (the facility), a boiling water reactor to be located 12 miles northeast of Gary, Indiana. 44 Fed. Reg. 69061. The proposed amendment of the permit would extend the latest date for completion of the facility from September 1, 1979 to December 1, 1987.

The notice provided that the permittee might file a request for a hearing and that any person whose interest might be affected by the proceeding might file a request for a hearing in the form of a petition for leave to intervene with respect to whether, pursuant to 10 C.F.R. § 50.55(b), good cause has been shown for the extension of the completion date of the facility.

The notice required that all petitions for leave to intervene be filed by December 31, 1979, in accordance with the provisions of the notice and 10

C.F.R. § 2.714. A number of petitions to intervene were received by that date.

An Atomic Safety and Licensing Board (Board) was designated to rule upon intervention petitions and requests for hearing, and to preside over the proceeding in the event that a hearing is ordered. The members of the Board are Mr. Glenn O. Bright, Dr. Richard F. Cole and Mr. Herbert Grossman, who will serve as Chairman of the Board. 44 Fed. Reg. 1711 (January 8, 1980).

Pursuant to the provisions of 10 C.F.R. § 2.751a the Board will conduct a special prehearing conference beginning at 9:30 a.m. on March 12, 1980 and continuing through March 13, 1980, if necessary, at the Public Hearing Room, Porter County Courthouse Annex, 1401 North Calumet Street, Valparaiso, Indiana 46383. All prospective parties to this proceeding, or their respective counsel, are directed to attend. At the special prehearing conference, in addition to discussing all of the issues raised with regard to the intervention petitions and the request for waiver of or exception to C.F.R. § 50.55(b), the parties should be prepared to discuss specific issues that might be considered at an evidentiary hearing and possible further scheduling in the proceeding. The petitioners shall file supplements to their petitions not later than 15 days prior to the special prehearing conference which shall include a list of specific contentions sought to be litigated in this proceeding.

The public is invited to attend the special prehearing conference. No oral limited appearance statements will be permitted at this conference. If a hearing is granted, opportunity for limited appearance statements will be afforded at subsequent evidentiary hearings near the site of the facility. Written limited appearance statements may be mailed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 or submitted at any subsequent conferences or sessions of the evidentiary hearing.

Board members Glenn O. Bright and Richard F. Cole concur in this order.

By Order of the Board.

Dated at Bethesda, Maryland this 7th of February, 1980.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman.

[FR Doc. 80-4716 Filed 2-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 110-00495; Application NO. XR-120; Application No. XCOM-0013; Order CLI-80-2]

Westinghouse Electric Corp.

The Commission has reviewed the public comments submitted in response to its October 19, 1979 order requesting comment on the Commission's jurisdiction to consider the health, safety and environmental impacts occurring outside the United States of proposed nuclear reactor exports. Further public comment specifically relating to the Philippine applications before the Commission would be in the public interest and would assist the Commission in making the statutory findings required by the Atomic Energy Act.

The Commission invites comment upon: (a) the health, safety or environmental effects the proposed exports would have upon the global commons or the territory of the United States, and (b) the relationship of these effects to the common defense and security of the United States. For purposes of these comments, the term "global commons" means geographical areas such as the high seas, Antarctica, and the portions of the atmosphere that are not within the territorial jurisdiction of a single nation state. The term "United States" means territory of the 50 States, as well as U.S. trust territories and possessions.

Comments should be sent to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch by February 29, 1980. Comments should also be served upon other participants in this proceeding pursuant to 10 CFR 110.89(b).

In the near future the Commission will issue an opinion setting forth its jurisdiction to consider health, safety and environmental effects that may occur as a result of proposed nuclear reactor exports.

This public proceeding on pending license applications for nuclear export licenses to the Philippines will be completed on February 29, 1980.

Commissioner Bradford notes that the Commission's request for comments suggests that it may structure its export licensing reviews to assess the impact on the fish in international waters while declining to look into the impacts on the health and safety of concentrations of U.S. citizens located near exported reactors. The law clearly does not require this outcome, and as a policy decision, he finds it extraordinary. He would examine the potential health, safety and environmental effects of the proposed exports on U.S. citizens at Subic Bay Naval Base and Clark Air Force Base.

It is so ordered.

Dated at Washington, D.C. this 8th day of February 1980.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-4714 Filed 2-13-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361A and 50-362A]

Southern California Edison Co. and San Diego Gas & Electric Co., Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated January 31, 1980, with respect to the construction permit application for San Onofre Nuclear Generating Station, Units No. 2 and No. 3:

You have requested our advice pursuant to Section 105(c) of the Atomic Energy Act, as amended, in regard to a transfer of ownership interest in the above referenced units to the cities of Anaheim and Riverside, California ("the Cities"). Under the proposed transfer, the City of Anaheim would acquire a 1.66% interest in each of the two 1100 MW units, for a total of 36.52 MW, and the City of Riverside would acquire a 1.79% interest in each of the two units, for a total of 39.38 MW.

The Cities filed applications to participate in both the San Joaquin and Sundesert nuclear plants, and the Nuclear Regulatory Commission was advised by letters of November 24, 1975, and September 2, 1977, that no antitrust hearings were necessary in connection with the participation of the Cities in those plants. We also advised the Commission, by letter of February 22, 1979, that it was not necessary to conduct a hearing with respect to the Cities' participation in units 4 and 5 of the Palo Verde Nuclear Generating Station.

Our review of the information submitted for antitrust review purposes, as well as other information available to the Department, provides no basis at this time to conclude that the participation in San Onofre units 2 and 3 by the Cities would warrant any change in our prior advice. Accordingly, it is the Department's view that no antitrust hearing is necessary with respect to the subject transfer of ownership interest.

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by

March 17, 1980 either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street, NW, Washington, DC, or (2) by mail or telegram addressed to the Secretary, US Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

[FR Doc. 80-4837 Filed 2-13-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

February 11, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them our rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill our the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promply. Our usual practics is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

Revisions

Animal and Plant Health Inspection Service
Insect Survey and Detection
PPO 391
On Occasion
State Agri. Extension Service Personnel, 5,209 Responses, 5,880 Hours
Charles A. Ellett, 395-5080

Economics, Statistics, and Cooperatives Service
June Enumerative Survey
Annually
Land operators in sample segments, 125,000 responses, 44,060 hours
Office of Federal Statistical Policy & Standard, 673-7974

Food Safety and Quality Service
Subchapter C Mandatory Poultry Products Inspection
9 CFR 381
Other (see SF-83)
Poultry packers, processors, etc., 556,205 responses, 28,011 hours
Charles A. Ellett, 395-5080

Food Safety and Quality Service
Subchapter B Voluntary Inspection and Certification Service
9 CFR 350-362
Other (see SF-83)
Meat packers, processors, etc., 28 responses, 7 hours
Charles A. Ellett, 395-5080

Food Safety and Quality Service
Mandatory Meat Inspection, Subchapter A
9 CFR 301-335
Other (see SF-83)
Meat packers, processors, etc., 426,600 responses, 181,835 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

National Oceanic and Atmospheric Administration
Report of transmitting antenna construction alteration and/or removal
NOAA, 76-10
On occasion
Owner of transmitting towers license by FCC 3,200 responses, 800 hours
John A. Caron, 395-3785

Revisions

Economic Development Administration
Local public works payroll reporting form
ED-746
Weekly
Const. (Sub)—Contr. on Fed.-funded pub. works proj. 14,825 responses, 7,412 hours
John A. Caron, 395-3785

Economic Development Administration
Identification of LPW grantee, evaluation representative, contractors and subcontractors
ED-747
On occasion
State & local government agencies 165 responses, 50 hours
John A. Caron, 395-3785

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Joseph J. Strnad—245–6511

New Forms

National Institutes of Health
Childhood antecedents of habitual cigarette smoking
Other (see SF–83)
Children & teachers in school & parents at home 5,267 responses, 3,423 hours
Office of Federal Statistical Policy & Standard, 673–7974

Reinstatements

Health Care Financing Administration (Medicare)
Instruction for completion of applications for Federal
Assistance—research and demonstration grants
HCFA-PG-9, 10 & 11
On occasion
State & Loc. Agen, Hosp, Nurs. Homes, Colleges & Univ's. 500 responses; 29,000 hours
Richard Eisinger, 395–3214

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

Revisions

Federal Aviation Administration
Aircraft registration application; aircraft bill of sale; and certificate of repossession of encumbered aircraft
AC 8050–1, 2, & 4
On occasion
New owners of U.S. civil aircraft 169,500 responses, 84,750 hours
Susan B. Geiger, 395–5867

Federal Aviation Administration
Agricultural aircraft operations
FAA 8710–3
On occasion
Agricultural aircraft operators 3,700 responses, 13,975 hours
Susan B. Geiger, 395–5867

Reinstatements

Coast Guard
Application and permit to handle explosives or other dangerous cargo
CG4260
On occasion
Carriers of explosives 100 responses, 100 hours
Susan B. Geiger, 395–5867

SELECTIVE SERVICE SYSTEM

Agency Clearance Officer—Clarence E. Boston—724–0419

New Forms

Change of address form
SSS 2
On occasion
Ages 18–26 (men & possibly women) 32 responses; 1,072,000 hours
Susan B. Geiger, 395–5867

Registration acknowledgement form
SSS 3
On occasion
Men & women born in 1960–61 & continuous for 18 yrs. old 10 responses, 333,333 hours
John M. Allen, 395–3785

New Forms

Selective service registration form
SSS 1
On occasion
Ages 18–26 (men & possibly women) 32 responses, 1,072,000 hours
John M. Allen, 395–3785

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2282

Revisions

VA consumer feedback card
VA 20–8843U (NR)
On occasion
Veterans, their dependents & beneficiaries 1,500 responses, 125 hours
Laverne V. Collins, 395–3214

Jim J. Tozzi,
Assistant Director for Regulatory and Information Policy.

[FR Doc. 80–4834 Filed 2–13–80; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11040; 812–4566]

Credit Lyonnais North America, Inc.; Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From all Provisions of the Act

February 8, 1980.

Notice is hereby given that Credit Lyonnais North America, Inc. ("Applicant") c/o William F. Kroener, III, Esq. Davis Polk & Wardwell One Chase Manhattan Plaza New York, New York 10005, filed an application on November 9, 1979, and amendments thereto on December 20, 1979, January 7, 1980, and February 5, 1980 for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized under the laws of Delaware on October 22, 1979, solely for the purposes described more fully below. According to the application, all of Applicant's outstanding shares of capital stock was purchased for $10,000 by Credit Lyonnais, a French commercial bank. It is further stated that no other common or capital stock will be issued, and that to the extent Applicant's capital is not needed to meet expenses, it will be placed on deposit with, or loaned to Credit Lyonnais.

In connection with a proposed issuance of commercial paper in the United States, Credit Lyonnais filed an application for an order of the Commission pursuant to Section 6(c) of the Act exempting Credit Lyonnais from all provisions of the Act, which was granted on August 7, 1979 (Investment Company Act Release No. 10814). The pending application states that if commercial paper were issued directly by Credit Lyonnais, a French withholding tax could be imposed on payments constituting interest on the commercial paper notes. It is further stated that if a French withholding tax were imposed, Credit Lyonnais' commercial paper, to be marketable, would have to bear a higher interest rate than commercial paper of similar maturities with a similar credit rating, the interest payments on which were not subject to withholding tax. Applicant asserts that many potential investors would be reluctant to purchase commercial paper subject to withholding tax because of the uncertainties and paperwork involved to claim a refund of the tax withheld. The application states that Credit Lyonnais organized Applicant to act solely as a vehicle through which Credit Lyonnais could obtain funds in the United States through the sale by Applicant of commercial paper unconditionally guaranteed by Credit Lyonnais by means of a guaranty, keep-well arrangement, back to back loan or otherwise. Applicant contemplates that substantially all of its assets (other than cash) in the future will be deposits with or loans to Credit Lyonnais. The application states that the holders of the notes could be considered holders of obligations of Credit Lyonnais.

According to the application, upon full implementation of the International Banking Act of 1978, it is expected that Credit Lyonnais will be required to file with the Board of Governors of the Federal Reserve System ("Federal Reserve Board") an annual report containing information with respect to Credit Lyonnais and its United States subsidiaries, including Applicant. The application states further that in the view of the staffs of the Federal Reserve Bank of New York and the Federal Reserve Board, Applicant is a service company, ownership of which by Credit Lyonnais is permitted by the Bank Holding Company Act of 1956 ("1956 Act"). Applicant asserts that as a non-bank subsidiary of a foreign bank having United States branches, Applicant is generally restricted to furnishing services to or performing services for Credit Lyonnais. Applicant also states that the 1956 Act provides that, under certain circumstances, the Federal Reserve Board may terminate certain United States activities by Applicant or Credit Lyonnais' control of Applicant.

According to the application, Applicant proposes to issue and sell prime quality commercial paper notes in minimum denominations of $100,000 through United States commercial paper dealers. Applicant represents that it will secure an undertaking from each such dealer that the notes will be sold to institutional investors and other entities and individuals that ordinarily purchase commercial paper notes. Applicant states that it expects the average amount of commercial paper outstanding during the year after the program commences to be approximately $500,000,000. Applicant represents that it proposes to make the offering in the United States to provide, in many cases, a less expensive method of short-term financing and to provide an alternative source of United States dollars during any temporary disruption in the Eurodollar market. The application states that the proceeds of the sale of the notes would be placed on short-term deposit with, or loaned to, Credit Lyonnais and thus made available to it for current transactions. The application states further that the deposits, or loans, with interest, as the case may be, would be withdrawn by, or repaid to Applicant, as required to pay commercial paper notes at maturity.

Applicant plans to sell the notes without registration under the Securities Act of 1933 ("1933 Act"), in reliance upon an opinion of its special counsel in the United States that the offering will qualify for an exemption from the registration requirements of the 1933 Act provided for certain short-term commercial paper by section 3(a)(3) thereof. Applicant will not proceed with its proposed offering until it has received such opinion letter. Applicant does not request Commission review or approval of such opinion letter and the Commission expresses no opinion as to

the availability of any such exemption. Applicant further represents that the presently proposed issue of securities and any future issue of its debt securities in the United States shall have received, prior to issuance, one of the three highest investment grade ratings from at least one of the nationally recognized investment rating organizations, and that its American counsel have certified that such rating has been received; provided, however, that no such rating shall be required to be obtained, if in the opinion of American counsel for Applicant, such counsel having taken into account for the purposes thereof the doctrine of "integration" referred to in various releases and noaction letters made public by the Commission, an exemption from registration is available with respect to such issue under section 4(2) of the 1933 Act. Applicant represents that the notes will rank *pari passu* among themselves and equally with all other unsecured unsubordinated indebtedness of Applicant and superior to rights of shareholders. The application states that the guaranty of Credit Lyonnais will rank *pari passu* with all other unsecured unsubordinated indebtedness of Credit Lyonnais, including its deposit liabilities, and superior to rights of shareholders.

Applicant undertakes to insure that the dealer will provide each offeree of the notes with a memorandum describing the business of Applicant and Credit Lyonnais and containing the most recently available audited financial statements of Credit Lyonnais, audited in accordance with French auditing practices. Applicant states that the offering memorandum will include a paragraph highlighting the material differences between French accounting standards applicable to French banks and generally accepted accounting principles employed by U.S. banks. Applicant represents that such memoranda will be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated periodically to reflect material changes in the business or financial status of Applicant or Credit Lyonnais. Applicant further represents that any future offerings of its debt securities in the United States will be done on the basis of disclosure documents which are at least as comprehensive in their description of Applicant and Credit Lyonnais, and the businesses of Applicant and Credit Lyonnais, as those customarily used in United States offerings of such securities and which contain the financial statements of Credit Lyonnais. Applicant consents to having any order granting the relief requested under section 6(c) of the Act expressly conditioned upon its and Credit Lyonnais' compliance with the foregoing undertakings concerning disclosure documents.

Applicant and Credit Lyonnais represent that they will appoint a bank or trust company, the Commission or a corporation providing corporate services for lawyers as agent to accept service of process in any suit, action, or proceeding, brought on, respectively, the short-term notes or the guaranty or with respect to the offer and sale of short-term notes by means of the offering memorandum and instituted in any state or federal court by the holder of any short-term note. The application states that Applicant and Credit Lyonnais will expressly submit to the jurisdiction of state or federal courts in the City and State of New York in respect of any such suit, action or proceeding. The application states further that such appointments of an agent to accept service of process and such consents to jurisdiction shall be irrevocable until all amounts due and to become due in respect of the notes have been paid. The application also states that Applicant and Credit Lyonnais will similarly consent to jurisdiction and appoint an agent for service of process in any such suit, action, or proceeding arising from any future offerings of debt securities that it may make in the United States.

Section 3(a)(3) of the Act defines investment company to mean "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuers total assets (exclusive of government securities and cash items) on an unconsolidated basis." Applicant states that it may be considered to be an investment company as defined under the Act.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that the purchase of its notes will be the equivalent of purchasing obligations of Credit Lyonnais because of Credit Lyonnais' unconditional guaranty. [Applicant also states that Credit Lyonnais, by

Commission order, has been granted an exemption under section 6(c) of the Act but has decided not to sell commercial paper in the United States because of tax questions that have arisen under French law.] Applicant states that it will serve as a vehicle to facilitate Credit Lyonnais' obtaining of funds through Applicant's sale of its debt securities in the United States and its only business will be to sell its commercial paper in the United States and to deposit with or lend to Credit Lyonnais the proceeds of such sale. Applicant asserts further that under present Federal banking laws, there is no advantage to a foreign bank in issuing securities through a wholly-owned domestic subsidiary rather than issuing such securities directly. Applicant submits that granting an exemptive order pursuant to section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 4, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notifed if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–4829 Filed 2–13–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11039; 812–4580]

Real Estate Associates Ltd. II, et al.; Filing of Application Pursuant to Section 6(c) of the Act for Exemption From all Provisions of the Act

February 7, 1980.

Notice is hereby given that Real Estate Associates Limited II ("REAL II"), a California limited partnership, and its general partners, Sonnenblick-Goldman Corp. of California and National Partnership Investments Associates ("General Partners" and, together with REAL II, referred to hereinafter as "Applicants") 1901 Avenue of the Stars, Los Angeles, California 90067, filed an application on December 11, 1979, and an amendment thereto on February 4, 1980, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting REAL II from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that REAL II was formed under the California Limited Partnership Act on December 4, 1979, and is designed to implement the policy of Title IX of the Housing and Urban Development Act of 1968 to provide private investors with a means of acquiring equity interests in government-assisted low and moderate income housing. REAL II will acquire limited partnership interests in local limited partnerships ("Local Limited Partnership") which own or lease government-assisted rental housing projects for low and moderate income persons.

REAL II itself is organized as a limited partnership because a limited partnership is the only form of

organization which provides an investor with both liability limited to his capital investment and the ability to claim on his individual tax return the deductions, losses, credits and other tax items a partnership can pass through to its partners. Therefore, REAL II will operate as a "two tier" partnership, i.e., REAL II, a limited partnership, will invest in other limited partnerships (Local Limited Partnerships), which in turn will be engaged in the development, building, ownership, or leasing of government-assisted housing for low and moderate income persons.

One of the primary objectives of REAL II is to pass through to its partners during the early years of the partnership net losses which may be used to offset other taxable income. Another of REAL II's primary objectives is to invest in projects which will appreciate in value.

REAL II has filed a registration statement under the Securities Act of 1933, which, as amended, will cover the sale of 240 to 2,000 Units at $5,000 per Unit. Applicants represent that the maximum number of Units may be increased. Each Unit consists of two limited partnership interests and a warrant to purchase two additional limited partnership interests, exercisable by January 26, 1981 (the "Warrants"). The Warrants will entitle an investor to purchase the related limited partnership interests for $2,500 each, the equivalent price per limited partnership interest acquired pursuant to the purchase of a Unit. In the event that any Warrant is not exercised, the respective limited partnership interests may be sold by REAL II to other qualifying offerees.

Commencing in 1981, REAL II will allocate 62½% of profits and losees to the limited partnership interests sold in 1981 (whether sold by exercise of the Warrants or by subscriptions for interests as to which the Warrants were not exercised) and 37½% of its profits and losses to the limited partnership interests sold in 1980. This allocation will continue until the aggregate profits and losses allocated to the limited partnership interests sold in 1981 equal the aggregate profits and losses allocated to limited partnership interests sold in 1980. The effect of this allocation is expected to be that, in the course of the life of REAL II, interests purchased in 1980 by investors who do not exercise the Warrants to purchase interests in 1981, and interests for which subscriptions pursuant to the unexercised Warrants are accepted in 1981, will have been allocated an equal aggregate amount of profits and losses in REAL II and will have equivalent capital accounts. After this equalization of capital accounts is attained, all interests will be treated equally without regard to the date they were purchased.

Interests in REAL II will be sold only to qualified investors with a minimum subscription of one Unit ($5,000). The General Partners will contribute to REAL II $12,500, an amount representing approximately 1%, .1%, or .06%, respectively, of the total capitalization depending upon whether the minimum, maximum (excluding exercise of the Warrants), or maximum (including exercise of the Warrants) offering amount is sold. It is estimated that REAL II will have as proceeds of its public offering, a minimum of $1,050,000 and maximums (depending upon the exercise of the Warrants) of approximately $8,800,000 or $17,625,000 available for investment after deductions for sales commissions and anticipated offering expenses.

Offers to sell and sales of the Units to the public are proposed to be effected through E. F. Hutton and Company Inc. and other selected members of the National Association of Securities Dealers, Inc., none of which will own or owns any interest in either of the General Partners or will have or has any other material relationship with their directors, officers or partners. Such broker-dealers will use their best efforts, as agents for REAL II, to obtain subscriptions for Units in REAL II and thereafter to sell any limited partnership interests available upon the non-exercise of the Warrants.

No subscription for Units will be accepted unless the subscribing investor will represent in the Subscription Agreement for Units (1) that he has a net worth (exclusive of home, furnishings, and automobiles) of at least $50,000, and an annual gross income of at least $50,000, or that he has a net worth (exclusive of home, furnishings, and automobiles) of at least $200,000, or that he is purchasing in a fiduciary capacity for a person or entity which has such net worth and annual gross income; and (2) that he is aware of the risks involved in investing in REAL II. He also must represent that some part of his annual income for 1980 will be taxable at the federal tax rate of 50% or more, and that he anticipates some part of his income for the next six years will, but for the effect of his investment in the Units and limited partnership interests or other tax shelters, be taxable at such 50% rate. In addition, the partnership agreement of REAL II will require that during the first five years following effectiveness of the registration statement, each transferee of limited partnership interests must represent that he meets the suitability standards set forth above.

REAL II will be controlled by the General Partners pursuant to a partnership agreement ("Partnership Agreement") between the General Partners and limited partners, whereby the limited partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of REAL II. However, limited partners owning a majority of limited partnership interests will have the right to amend the Partnership Agreement, dissolve REAL II, remove one or both of the General Partners and elect successor general partners, and continue REAL II upon the death, insanity, retirement or bankruptcy of a General Partner. Also under the Partnership Agreement, each limited partner or his representative is entitled to review the records of REAL II at reasonable times, including the register of names, addresses and number of limited partnership interests owned by each other limited partner.

Applicants state that REAL II will invest not less than 90% of its available capital in Local Limited Partnerships which own or lease government-assisted housing projects. REAL II may also invest up to 10% of its capital in limited partnerships owning other residential projects. REAL II has not yet identified any specific Local Limited Partnership or projects in which it proposes to invest. However, the application states that REAL II will make its investments in accordance with both detailed criteria for selecting particular projects for investment and certain investment policies which may not be changed without approval by the limited partners owning at least a majority of the outstanding limited partnership interests.

Because REAL II will invest only in limited partnership interests, both REAL II and the General Partners will have only limited control over the management of the Local Limited Partnerships. However, REAL II will own at least 50% and, in many cases, 90% of the limited partnership interests of a Local Limited Partnership. Moreover, in negotiating Local Limited Partnership Agreements, the General Partners will endeavor to provide REAL II with one or more of the following: the right to approve or disapprove the sale of the project; the right to demand a dissolution of the Local Limited Partnership; and the right to demand the resignation of the local general partner. In addition, REAL II's capital contribution to a Local Limited Partnership will be made in stages, and,

in most cases, REAL II will withhold the major portion of its contribution until the project has been constructed and is operating.

Although the General Partners are engaged in other real estate transactions and manage other similar limited partnerships, REAL II will not sell, acquire or lease properties or interests therein to or from the General Partners or their affiliates. Further, the General Partners have undertaken that no new public offerings with the same investment objectives as REAL II will be commenced until substantially all funds raised by REAL II have been committed to investment or otherwise utilized as described in the REAL II prospectus.

The General Partners will be entitled to receive 1% of REAL II's profits, losses and distributions subject to the condition that their 1% share of net cash flow will be reduced each year by the amount of annual management fees which are paid or payable to them in that year. In addition to their 1% participation in REAL II's profits, losses and distributions, the General Partners will receive certain fees for overseeing the conduct of REAL II's affairs and the continuing operation of each project.

In the initial period, the General Partners will be paid a fee for the organization and initial management of REAL II, the syndication of the Units and the provision of certain financing commitments, if any, aggregating approximately 0.9% of invested assets. Invested assets are defined as the sum of the capital contributions anticipated to be made by REAL II to the Local Limited Partnerships and the aggregate amount of the nonrecourse mortgage loans on the projects owned by such Local Limited Partnerships attributable to REAL II's capital contributions. The General Partners also will receive acquisition and selection fees for their services in connection with the selection, evaluation, negotiation and acquisition of REAL II's investments. The aggregate amount of such fees will equal approximately 1.0% of invested assets. Of the proceeds from the sale of the Units, Applicants anticipate that approximately a minimum of $124,000 and maximums (depending upon the exercise of the Warrants) of $1,051,000 and $2,103,000 will be paid for these organization, syndication, commitment, acquisition and selection fees.

During REAL II's operational period, the General Partners will receive, in consideration for their management services, an annual fee in an amount equal to 0.5% of invested assets to be paid out of REAL II's general funds. As noted above, this annual management fee will be applied against the General Partners' 1% share of REAL II's net cash flow. Finally, when a project is sold, the General Partners will receive a liquidation fee based upon the net proceeds only after payment to the limited partners of their invested capital in the project, plus an amount sufficient to pay their federal and state taxes. Applicants represent that all of these fees are in substantial conformity with the standards imposed by the Midwest Securities Commissioners and the California Corporations Commissioner, and that to the best of their knowledge all such fees are in compliance with the current rules promulgated by such authorities.

REAL II states that it will file with the Commission pursuant to Section 15(d) of the Securities Exchange Act of 1934 all required annual reports, quarterly reports, and current reports on Forms 10–K, 10–Q and 8–K, as well as any other reports required by such Act. The General Partners will also send each limited partner a year-end report containing financial statements audited by REAL II's independent accountants and tax information necessary for the preparation of each limited partner's federal income tax return. In addition, each limited partner will receive a report at least semiannually of REAL II's activities and the operational status of its investments, as well as interim reports regarding acquisitions.

Under the California Limited Partnership Act, and under the terms of the Partnership Agreement, the corporate General Partner, which has registered as an investment adviser under the Investment Advisers Act of 1940, and the non-corporate General Partner, are fiduciaries of REAL II and its limited partners. Applicants state that under the Partnership Agreement, the officers and directors of the corporate General Partner and the partners of the non-corporate General Partner will be indemnified only when a court finds that such persons's conduct fairly and equitably merit indemnity in the amount claimed.

Without conceding that REAL II is an investment company as defined in the Act, Applicants request that REAL II be exempted from the provisions of the Act pursuant to section 6(c). Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction from any provision of the Act and rule thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants contend that the exemption of REAL II from all provisions of the Act is both necessary and appropriate in the public interest. Applicants assert that the form of organization of REAL II, i.e., a limited partnership, which is necessary to limit the liability of private investors investing in subsidized low and moderate income housing, is incompatible with the regulatory framework of the Act. Applicants contend that to discourage the two-tier limited partnership arrangement by application of the Act would eliminate the primary means of attracting private equity capital into government-assisted housing and would frustrate the national policy declared by Congress "to encourage the widest possible participation by private enterprise in the provision of housing for low and moderate income persons." Applicants state that the exemption would be consistent with the protection of investors and the purposes and policies of the Act. The limited partnership interests in REAL II are being sold only to relatively sophisticated investors who will be apprised of the management of REAL II and of the Local Limited Partnerships through reports sent to the limited partners and filed with the Commission. Furthermore, Applicants state that the Geneal Partners' discretion to invest the assets of REAL II is proscribed by its stated investment policies and objectives, which may be changed only by the vote of the holders of at least a majority of the outstanding limited partnership interests. With a majority vote, the limited partners will also have the right to dissolve REAL II, to amend the Partnership Agreement, and to remove the General Partners.

Applicants further assert that although the involvement of the General Partners in similar past and future partnerships could create a conflict of interest, such potential conflicts are mitigated by the General Partners' undertaking not to make any conflicting new public offering until substantially all of REAL II's funds have been committed and to follow prescribed procedures for determining which partnership should make an investment in the event of a conflict. Moreover, Applicants state that the Partnership Agreement prohibits certain transactions between REAL II and its General Partners and their affiliates in order to eliminate or significantly mitigate conflicts of interest.

Notice is further given that any interested person may, not later than March 3, 1980 at 5:30 p.m., submit to the Commission in writing a request for a

hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–4630 Filed 2–14–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–16560; File No. SR–SCCP 80–1]

Stock Clearing Corp. of Philadelphia; Proposed Rule Change Self-Regulatory Organization

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on January 20, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia (SCCP) proposes an amendment to Rule 23, Compensation, which deals with charges for services rendered. The proposed rule change is in two parts: the first part establishes a syndicate pickup fee of $15.00; and the second part reduces the cost of interest charged on margin accounts for members to SCCP's cost. The text of the rule is as follows (new material italicized):

Rule 23. For the services rendered to clearing members as herein provided, such clearing member shall pay compensation to Stock Clearing Corporation and PHILADEP as follows:

(Sections 1 through 7 remain unchanged. The following are additions to Section 7.)

7. Miscellaneous Charges, *Syndicate Pickup, $15.00, Margin account interest, Pass-through of bank rate.*

Basis and Purpose of Proposed Rule Change

The purpose of the syndicate pickup fee is to establish a cost-related charge for a new service available with the opening of the New York branch office.

The purpose of the reduction in interest on margin accounts is to encourage greater use of this type of account among SCCP members.

The proposed Rule change provides equitable allocation of reasonable dues, fees and other charges among participating members in accordance with the standards set forth in section 17A(b)(3)(D) of the Act.

No formal comments have been solicited or received regarding the proposed Rule change.

No burden on competition will be imposed by the proposed Rule change. The proposed rate schedule does not discriminate between marketplaces nor does it inhibit clearing interfaces.

The foregoing Rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed Rule change, the Commission may summarily abrogate such Rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 6, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 8, 1980.

[FR Doc. 80–4628 Filed 2–13–80; 8:45 am]

BILLING CODE 8010–01–M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Public Hearing, Denver, Colo.

The Select Commission on Immigration and Refugee Policy will hold the eighth of 12 regional hearings on:

Date: February 25, 1980.
Time: 9–5; 7–9 p.m.
Place: The Old Supreme Court Chambers, State Capitol Building, Colfax and Sherman Streets, Denver, Colorado 80203.

The Denver hearing will be chaired by Senator Alan K. Simpson of Wyoming, member of the Senate Judiciary Committee and the Select Commission on Immigration and Refugee Policy.

The major portion of this hearing will be devoted to testimony from invited witnesses addressing issues relating to migration, population growth, and economic growth; legalization of illegal or undocumented aliens; and refugee and immigrant acculturation.

There will also be an "Open Mike" in the evening from 7:00–9:00 p.m. available to anyone wishing to address any immigration issue before the Commission.

Written statements will be accepted for a period of 7 days following the hearing from people unable to appear in person.

The public is cordially invited to attend both the day and evening discussions.

The Select Commission on Immigration and Refugee Policy was created by public law to provide a comprehensive review of U.S immigration laws, policies and procedures. The regional hearings are being held to ensure that a wide range of views are heard and considered by the Commission. Other hearings are being held in Baltimore, Boston, Chicago, Los Angeles, Miami, New Orleans, New York, Phoenix, San Antonio, and San Francisco.

Members of the Commission include four Cabinet officers, eight members of Congress with four members selected from each Judiciary Committee, and four members appointed by the President.

Anyone wishing more information about the Denver hearing or about testifying at the evening session should contact: Lee Thomas Surh, Select

Commission on Immigration and Refugee Policy, New Executive Office Building, Suite 2020, 726 Jackson Place, N.W., Washington, D.C. 20506, telephone: (202) 395–5615.

Dr. Lawrence H. Fuchs,

Executive Director.

[FR Doc. 80–4671 Filed 2–13–80; 8:45 am]

BILLING CODE 6820–AR–M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06–0231]

Energy Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Energy Capital Corporation, 300 Esperson Buildings, Houston, Texas 77002, 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 (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors, and shareholders are as follows:

Pat C. McBride, 7600 Burgoyne, No. 110, Houston, TX 77063, President, Treasurer, & Director.

Herbert F. Poyner, Jr., 3615 Elmridge, Houston, TX 77025, Vice President & Director.

George Allman, Jr., 5458 Indigo, Houston, TX 77096, Secretary & Director.

Charles D. Schutz, 745 Morningside, San Antonio, TX 78209, Director.

EnCap Management Corp., 300 Esperson Buildings, Houston, TX 77002, General Manager.

There will be two classes of stock. Class A common and Class B common with an aggregate 1.2 million shares authorized. Each share of stock has one vote. Approximately 900,000 shares of Class A common will be sold to approximately ten investors at $10.00 per share in a private placement. It is anticipated that no Class A shareholder will own ten percent or more of the Applicant's private capital or voting stock. In 1980 and thereafter, the Class A shareholders will elect four directors and the Class B shareholders will elect three directors.

Initially, 225,00 shares of Class B common will be purchased by EnCap Management Corporation (EnCap) at $.01 per share. EnCap will manage the day-to-day operations of the Applicant SBIC under a contractual agreement pursuant to Section 107.809 of the Regulations. EnCap has ten shareholders with only John R. Pringle, 200 Sterncrest Drive, Chagrin Falls, Ohio 44022, owning 10 percent or more of its stock.

The initial private paid-in capital and paid-in surplus will be approximately $9.0 million. It intends to conduct the major portion of its business in the States of Texas, Louisiana, Oklahoma, Arkansas, Alabama, New Mexico and Mississippi. Applicant intends to maintain a diversified investment policy with special emphasis in energy and energy-related fields.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than February 29, 1980, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 11, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–4833 Filed 2–13–80; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #1734]

Missouri; Declaration of Disaster Loan Area

Atchison County and adjacent counties within the State of Missouri constitute a disaster area as a result of damage caused by tornadic winds, hail and rain which occurred on August 28, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 21, 1980, and for economic injury until the close of business on August 21, 1980, at: Small Business Administration, District Office, 12 Grand Building, 5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106, or other locally announced locations.

Dated: November 21, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

A. Vernon Weaver,

Administrator.

[FR Doc. 80–4831 Filed 2–13–80; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Miami, Florida, will hold a public meeting from 9:30 a.m. to 4:00 p.m., Tuesday, March 18, 1980, in the Community Room, Second Floor, University Federal Savings & Loan Building, 2222 Ponce de Leon Boulevard, Coral Gables, Florida, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Bernard Layne, District Director U.S. Small Business Administration, 2222 Ponce de Leon Boulevard, 5th Floor, Coral Gables, Florida 33134—(305) 350–5533.

Dated: February 11, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80–4832 Filed 2–13–80; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Waiver Petition Docket Nos. SA–79–26 through SA–79–31]

Petitions for Waiver of Railroad Safety Appliance Standards

Notice is hereby given that nine petitioners have submitted requests for permanent waivers of compliance with certain requirements of the Railroad Safety Appliance Standards (49 CFR Part 231). Each of these petitions for waiver involves provisions of the Railroad Safety Appliance Standards that are applicable to locomotives used in road or switching service.

The Federal Railroad Administration (FRA) published a final rule on September 8, 1978 (41 FR 37782) that prescribed configurations for the handholds and uncoupling mechanisms of locomotives used in road service (49 CFR Part 231.29) and also prescribed configurations for the handholds, uncoupling mechanisms and stairways of locomotives used in switching service (49 CFR Part 231.30). These regulations are applicable to both existing locomotives and locomotives that will be constructed in the future. Full

compliance for the entire locomotive fleet was scheduled for October 1, 1979.

The individual petitions for a waiver of compliance with the certain provisions of this regulation are described below. The description indicates the nature and extent of the relief requested as well as any information that has been submitted in support of the request for the waiver of compliance.

Interested persons are invited to participate in these proceedings by submitting written data, views or comments. FRA does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g., FRA Waiver Petition Docket No. SA–79–6) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before March 7, 1980, will be considered by the Federal Railroad Administration before the date final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination during regular business hours (9 a.m.–5 p.m.), both before and after the closing date for comment, in Room 8211 Nassif Building, 400 Seventh Street, SW., Washington, D.C.

Virginia Central Railway

[Waiver Petition Docket No. SA–79–26]

Virginia Central Railway (VCR) seeks a waiver of compliance with § 231.30 for a diesel locomotive used in switching service for its operations in Fredericksburg, Virginia. This locomotive is a 44-ton General Electric diesel unit built in 1944.

This locomotive was designed with a vertical ladder-like step arrangement on all four corners. VCR indicates that it would not be possible to modify this locomotive in view of the original design of this unit. This locomotive is only used to service an industrial park with approximately one mile of track, and does not have a substantial number of movements per year. A permanent waiver of compliance is sought for this locomotive by the VCR.

Chicago & Northwestern Transportation Company

[Waiver Petition Docket No. SA–79–27]

CNW seeks a waiver of compliance with § 231.30 for 19 diesel locomotives used in switching service. These units were built by the Baldwin Locomotive Company during the 1940's.

These locomotives were designed with a vertical ladder-like step arrangement on all four corners. Additionally, the units were built with cast steel weights near the step area. Consequently, CNW believes that it is not possible to modify these units to bring them into compliance with the regulation.

These locomotives are currently operating only in assigned locations where transportation personnel are familiar with the stepwell configuration and adjust their movements and actions accordingly. Finally, these units contain much obsolete equipment and will be retired when a major component failure occurs. CNW seeks a permanent waiver for these units.

Goodwin Railroad Incorporated

[Waiver Petition Docket No. SA–79–28]

Goodwin Railroad Inc. (Goodwin), which primarily services the State of New Hampshire, seeks a waiver of compliance with § 231.30 for one diesel locomotive used in switching service. The locomotive is a General Electric 44-ton locomotive built at an undetermined date.

The locomotive was designed with a vertical ladder-like step arrangement near all four corners. Goodwin indicates that the original design of this unit makes it virtually impossible and unsafe to modify this unit to comply with the regulations.

This locomotive is leased by Goodwin from the State of New Hampshire and is only used as a backup unit for operations on the State-owned rail line. Goodwin seeks a permanent waiver of compliance for this locomotive.

Acme Brick Company

[Waiver Petition Docket No. SA–79–29]

The Acme Brick Company (Acme) of Malvern, Arkansas seeks a waiver of compliance with § 231.30 for one diesel locomotive used in switching service. The locomotive was built by Davenport Locomotive Works in 1941.

The locomotive was designed with a vertical ladder-like step arrangement near all four corners. Acme indicates that it would not be possible to modify this locomotive in view of the original design of this unit.

The locomotive is primarily used for on-the-premise switching but is sometimes used to transport cars over common carrier switch trackage. Acme has undertaken plant expansion that involves the replacement of in-plant loading trackage so as to accommodate common carriers switch engines. Upon completion of this expansion, this locomotive will either be retired or used only for in-plant switching. Acme seeks a permanent waiver of compliance for this locomotive.

Port of Tillamook Bay

[Waiver Petition Docket No. SA–79–30]

The Port of Tillamook Bay (PTB) seeks a waiver of compliance with § 231.30 for two diesel locomotives used in switching service for its operations in Tillamook, Oregon. Both locomotives were built by the General Electric Company in 1943.

These locomotives were designed with a vertical ladder-like step arrangement on all four corners and with wooden footboards at the front and rear of the locomotive. PTB's tracks cross a county road where a flagman is used and the present footboards provide a convenient and safe means of performing this function. The removal of the footboard and use of the crew of corner stair steps would present severe operational problems and safety hazards to the crewmen. In addition, installation of the four corner stairways would require extensive modification of the car body and side sills of the locomotive. The PTB seeks a permanent waiver of compliance for these units.

Carolina Power & Light Company

[Waiver Petition Docket No. SA–79–31]

The Carolina Power and Light Company (CP&L) seeks a waiver of compliance with § 231.30 for three diesel locomotives used in switching service at several plants in North Carolina. Each locomotive was built by the General Electric Company at an undetermined date.

These locomotives was designed with a vertical ladder-like step arrangement in all four corners. CP&L indicates that it would not be possible to modify them in view of their original design.

These locomotives are primarily used for switching coal cars into and out of the plant sites and operate over less than one mile of common carrier trackage. CP&L seeks a permanent waiver of these units.

Yakima Valley Transportation Company

[Waiver Petition Docket No. SA–79–6]

The Yakima Valley Transportation Company (Yakima Valley) seeks a waiver of compliance with § 231.30 for two locomotives used in switching service in Yakima County, Washington. These locomotives were built by the General Electric Company in 1922 and 1923.

Both locomotives were designed with a vertical ladder-like step arrangement on all four corners and with wooden footboards at the front and rear of the locomotive. The City of Yakima franchise ordinance requires all trains to use a flagman at intersections which are not protected by stop signs. The present footboards provide a convenient and safe means of performing this function. The removel of the footboards and use by the crew of corner stair steps would present severe operational problems and safety hazards to the crewmen. In addition, installation of the four corner stairways would require extensive modification of the car body and side sills of the locomotive. Yakima Valley seeks a permanent waiver of compliance for these units.

Peninsula Terminal Company

[Waiver Petition Docket No. SA–79–14]

The Peninsula Terminal Company (Peninsula) seeks a waiver of compliance with § 231.30 for two locomotives used in switching service for its operations in Portland, Oregon. One locomotive is a 50-ton General Electric unit built in 1946, and the other is a 70-ton General Electric unit built in 1956.

Both locomotives were designed with a vertical ladder-like step arrangement in all four corners and with wooden footboards at the front and rear of the locomotive. The City of Portland franchise ordinance requires all trains to use a flagman at intersections which are not protected by stop signs. The present footboards provide a convenient and safe means of performing this function. The removal of the footboards and use by the crew of corner stair steps would present severe operational problems and safety hazards to the crewmen. In addition, installation of the four corner stairways would require extensive modification of the car body and side sills of the locomotive. Peninsula seeks a permanent waiver of compliance for these units.

Cumbres and Toltec Scenic Railroad

[Waiver Petition Docket No. SA–79–18]

Cumbres & Toltec Scenic Railroad (Cumbres) seeks a waiver of compliance with § 231.30 for a locomotive used in switching service for its operations in Chama, New Mexico. The locomotive is a 44-ton diesel electric locomotive built by the General Electric Company in 1943.

This locomotive was designed with a vertical ladder-like step arrangement on all four corners. Cumbres indicates that it would not be possible to modify this locomotive in view of the original design of this unit. This locomotive is primarily used to move steam locomotives in the shop area. A permanent waiver of compliance is sought for this locomotive by Cumbres.

This notice is issued under the authority of sections 4, 6, and 12, 27 Stat. 531, as amended, section (6)(e) and (f), 80 Stat. 939; U.S.C. 4, 6, 12; 49 U.S.C. 1655 and section 1.49(c) of the regulations of the Secretary of Transportation 49 CFR 1.49(c).

Issued in Washington, D.C. on January 28, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80–4480 Filed 2–13–80; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Biomechanics Advisory Committee; Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C. App. F), notice is hereby given of a meeting of the Biomechanics Advisory Committee to be held on March 5, 1980, in Room 6200, Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, D.C.

The meeting will begin at 9:00 a.m. and the agenda will consist of the following: (1) Review of last meeting of Biomechanics Advisory Committee; (2) Review of changes to NHTSA Order 700–1, "Protection of the Rights and Welfare of Human Subjects Involved in NHTSA-Sponsored Experiments," and NHTSA Order 700–2, "Biomechanics Advisory Committee"; (3) Summary and discussion of projects reviewed by the Human Use Review Committee; and (4) Review of selected research projects being considered by NHTSA.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202–426–2872.

Issued in Washington, D.C. on: Feb. 6, 1980.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 80–4441 Filed 2–13–80; 8:45 am]

BILLING CODE 4910–59–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 32
Thursday, February 14, 1980

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

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., February 20, 1980.

PLACE: 2033 K Street, NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Contract Market Rule Enforcement Reviews.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-289-80 Filed 2-12-80; 11:22 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., February 20, 1980.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Recommendations for Reform of CFTC Reparations System.

Section Eight Policy Statement.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-290-80 Filed 2-12-80; 11:22 am]

BILLING CODE 6351-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-249-80.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, February 12, 1980.

CHANGE IN THE MEETING: The following matter was added to the agenda for the open portion of the meeting:

"Noncompetitive Personal Services Contract." A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

IN FAVOR OF CHANGE:

Eleanor Holmes Norton, Chair
Daniel E. Leach, Vice Chair
Ethel Bent Walsh, Commissioner
Armando M. Rodriguez, Commissioner
J. Clay Smith, Jr., Commissioner

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat at (202) 634-6748.

This Notice Issued February 12, 1980.

[S-296-80 Filed 2-12-80; 3:54 pm]

BILLING CODE 6570-06-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change 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 Monday, February 11, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the applications of Bank of the West, San Jose, California, for consent to merge, under its charter and title, with French Bank of California, San Francisco, California, to establish the five offices of French Bank of California as branches of the resultant bank, to redesignate Bank of the West's main office location to the present main office site of French Bank of California, and for consent to retire convertible capital notes.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Dated: February 11, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-286-80 Filed 2-12-80; 10:41 am]

BILLING CODE 6714-01-M

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR Page 9150, February 11, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., February 14, 1980.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting.

Application for Permission to Convert to a Federal Chartered Stock Form—First Federal Savings and Loan Association of Brookhaven, Brookhaven, Mississippi.

Announcement is being made at the earliest practicable time.

No. 315.

February 12, 1980.

[S-295-80 Filed 2-12-80; 3:42 pm]

BILLING CODE 6720-01-M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

February 6, 1980.

TIME AND DATE: 10 a.m., Wednesday, February 13, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Everett Propst & Robert Stemple, MORG 76–28–P, (issues include constitutionality of section 109(c) of the Federal Coal Mine Health and Safety Act of 1969).
2. Waukesha Lime & Stone Co., Inc., VINC 79–66–PM, (issues include whether the Fourth Amendment warrant requirement applies to inspection under section 103 of the Federal Mine Safety & Health Act of 1977).
3. Halquist Stone Co., Inc., VINC 79–118–PM, (issue is same as Waukesha Lime & Stone Co., Inc.).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–288–80 Filed 2–12–80; 11:09 am]

BILLING CODE 6820–12–M

7

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 2:30 p.m., Tuesday, February 19, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 462–3204.

Griffith L. Garwood,

Deputy Secretary of the Board.

Date: February 11, 1980.

[S–284–80 Filed 2–12–80; 9:54 am]

BILLING CODE 6210–01–M

8

[USITC ERB–80–3]

INTERNATIONAL TRADE COMMISSION (Executive Resources Board (ERB)).

TIME AND DATE: 10 a.m., Friday, February 15, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Closed to the public. Emergency meeting—less than ten days' prior notice.

MATTERS TO BE CONSIDERED: Pursuant to the specific exemptions of 5 U.S.C. 552b(c) (2) and (6), on the authority of 19 U.S.C. 1335, and in conformity with 19 C.F.R. 201.36(b) (2) and (6), Commissioners Alberger and Stern, as members of the Executive Resources Board (ERB), voted by unanimous consent to hold a meeting of the Board in closed session as follows:

1. Managerial Development Program.

(Commissioner Moore was not present for the vote.)

A majority of the entire membership of the Board felt that this meeting should be closed to the public since: (1) the discussion would only concern internal personnel practice and procedures; and (2) the information discussed would be likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy. The Board members also determined by unanimous consent that Commission business requires the scheduling of the meeting with less than ten days' prior notice, affirmed that no earlier announcement of the meeting was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–292–80 Filed 2–12–80; 2:28 pm]

BILLING CODE 7020–02–M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 3:30 p.m., Monday, Febraury 11, 1980. [NM–80–10]

PLACE: Chairman's Office, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board required that the following item be discussed on this date and that no earlier announcement was possible.

Discussion of procedures with respect to marine accident investigation, USCGC BLACKTHORN/SS CAPRICORN, Tampa Bay, Florida, January 28, 1980.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

February 12, 1980.

[S–293–80 Filed 2–12–80; 3:05 p.m.]

BILLING CODE 4910–58–M

10

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, February 21, 1980. [NM–80–9]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first eight items are open to the public; the last three items are closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Puerto Rico International Airlines, Inc., deHavilland Heron, DH–114, N575PR, Alexander Hamilton Airport, Christiansted, St. Croix, U.S. Virgin Islands, July 24, 1979.
2. *Pipeline Accident Report*—Southern Natural Gas Company, rupture and fire of a 14-inch gas transmission pipeline, southeast of New Orleans, Louisiana (offshore), July 15, 1979, and *Recommendations* to the American Gas Association, the American Petroleum Institute, The Offshore Operator's Committee, the International Association of Drilling contractors, Shell Oil Company, the U.S. Department of the Interior, and the U.S. Coast Guard.
3. *Recommendation*—To American Gas Association and Northwestern Public Service Co. re Grand Island, Nebraska, pipeline accident, August 28, 1978.
4. *Safety Objective Program Plan*—Pipeline Data System.
5. *Special Investigation Report*—The Accident Performance of Tank Car Safeguards.
6. *Safety Objective Program Plan*—Increased Shippers' Involvement in Hazardous Materials Transportation Activities.
7. *Safety Objective Program Plan*—Performance Standards for Bridge Barrier Systems.
8. *Safety Objective Program Plan*—Collisions in Restricted Waters (VTS).
9. *Opinion and Order*—Petition of Harrington, Dkt. SM–2453; disposition of petitioner's appeal.
10. *Opinion and Order*—Administrator v. Weis, Dkt. SE–4011; Administrator v. Hurrelbrink, Dkt. SE–4008; disposition of the appeals of each party.
11. *Opinion and Order*—Petition of Dodson, Dkt. SM–2366; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

February 12, 1980.

[S–294–80 Filed 2–12–80; 3:05 p.m.]

BILLING CODE 4910–58–M

11

PAROLE COMMISSION: (National Commissioners—the Commissioners presently maintaining Offices at Washington, D.C. Headquarters).

TIME AND DATE: Friday, February 15, 1980, at 9:30 a.m.

PLACE: Room 818, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 18 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION: A. Ronald Peterson, Analyst: (202) 724–3094.

[S–285–80 Filed 2–12–80; 10:41 am]

BILLING CODE 4410–01–M

12

POSTAL RATE COMMISSION.

TIME AND DATE: 3 p.m., Tuesday, February 12, 1980.

PLACE: Conference Room, Room 500, 2000 L St., N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. MC79–2 (EMMS).
2. Docket No. MC79–3 (Red Tag).

Closed pursuant to 5 USC 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–287–80 Filed 2–12–80; 11:09 am]

BILLING CODE 7715–01–M

13

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 11 a.m., February 21, 1980.

PLACE: 955 L'Enfant Plaza North SW., Board Room, Room 2–500, Fifth Floor, Washington, D.C.

STATUS: This meeting is closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions closed to the public (11 a.m.)

1. Consideration of internal personnel matters.
2. Litigation report.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 426–4250.

[S–291–80 Filed 2–12–80; 1:18 pm]

BILLING CODE 8240–01–M

federal register

Thursday
February 14, 1980

Part II

Department of Transportation

Coast Guard

Deepwater Port Safety Zone

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 148 and 150

[CGD 76-096]

Deepwater Port Safety Zone

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes amending its deepwater port regulations by adding requirements governing vessel activities at U.S. deepwater ports and designating the boundaries of deepwater port safety zone and shipping safety fairways. Included in this proposal are several minor changes in the existing deepwater port regulations and a number of editorial changes for clarification. The action is mandated by existing law, the purpose of which is to promote marine environmental protection and navigational safety at deepwater ports.

DATES: Comments must be received on or before March 31, 1980.

ADDRESS: Comments should be mailed to the Commandant (G-CMC/TP24), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593. Between the hours of 7:30 a.m. and 4:30 p.m., Monday through Thursday, comments may be delivered to and will be available for inspection or copying in Room 2418 at the above address. Also available for examination is the draft regulatory evaluation from which the economic summary in this document is taken and the final environmental impact statement that assesses conceptually the consequences of this rulemaking action. Copies of comments will be furnished to interested persons upon request and payment of the fees prescribed in 49 CFR 7.95.

FOR FURTHER INFORMATION CONTACT: Frank A. Martin, Jr., (202) 472-5052.

SUPPLEMENTARY INFORMATION: The Coast Guard invites the public to participate in this rulemaking by submitting written data, views, or arguments. Each person submitting comments should include the name and address, identify this notice [CGD 76-096], the specific item or items being commented upon, and give detailed reasons for any suggestions, arguments, objections or recommendations. Comments will be carefully evaluated before further action is taken to finalize the proposals in this notice. Acknowledgement of individual comments will be made only if a stamped, addressed postcard is enclosed. No public hearing is presently contemplated, but one will be held if requested in writing by anyone raising a genuine issue. Under current Department of Transportation regulation policies and procedures, this proposal is considered a "non-significant" rulemaking.

Drafting Information

The principal persons involved in this rulemaking action are: Frank A. Martin, Jr., Project Manager, Office of Marine Environment and Systems and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Background

The designation of safety zones at U.S. deepwater ports is required by Section 10(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(d)) (the Act). Section 10(d) of the Act provides that in deepwater port safety zones no installations, structures or uses will be permitted that are incompatible with port operations and also provides that permitted activities shall be defined by regulation. While subsection (d) of Section 10 of the Act specifically addresses deepwater port safety zone designations and regulatory matters, subsection (a) of Section 10, in addition, generally authorizes promulgation of procedures and regulations governing vessel movement at or near a deepwater port.

One deepwater port has been licensed and is under construction off the U.S. Gulf Coast. The location of this port, known as LOOP, Inc. Deepwater Port (LOOP), and probable tanker routes to the port are shown in Figure 1. It is anticipated that LOOP will be ready to begin oil transfer operations by the fall of 1980.

A second deepwater port license was issued on August 15, 1979 to the Texas Deepwater Port Authority authorizing that entity to proceed with another deepwater port facility in the Gulf of Mexico off of Freeport, Texas. Final decisions regarding the acceptance of that license and whether to pursue construction of the project have not yet been reached.

BILLING CODE 4910-14-M

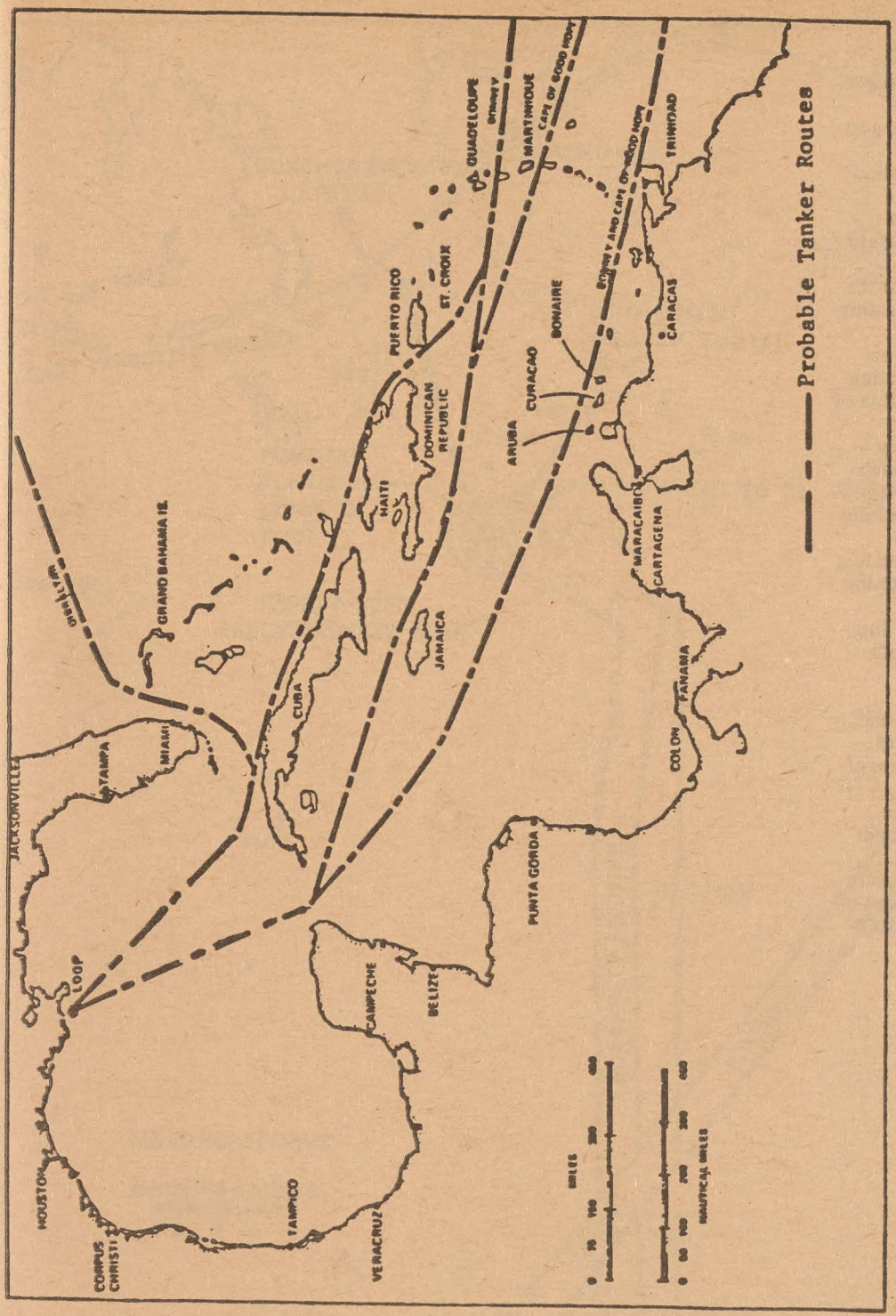


Figure 1: LOOP, Inc. Deepwater Port Location

BILLING CODE 4910-14-C

A typical U.S. deepwater port safety zone includes a designated precautionary area within which are specific area to be avoided, anchorages, and other ships' routing measures conducive to safe navigation in the port vicinity.

During the LOOP license application review process, the Coast Guard carefully evaluated various factors pertaining to development of the safety zone. Included in the final environmental impact statement for the port is a general discussion of the safety zone development, along with discussion of such specific factors as determining size, configuration, routing measures, alternatives, and regulation of vessel activities. The methodology employed for establishing the safety zone also considered tanker approach speed, maneuverability, and casualty and weather assumptions. The resulting designated safety zone at LOOP is shown in Figures 2 and 3, in relation to a shipping safety fairway approach to the port.

The proposed safety fairway leading to the port from the 1000 meter depth contour in the Gulf of Mexico, as indicated in Figure 2, is being established to ensure that tankers will have an obstruction free ingress and egress route to the port over the term of the LOOP license. The erection of structures in the fairway will not be permitted. Authority for establishment of the fairway rests with the Coast Guard by delegation from the Secretary of Transportation of relevant sections of the Port and Tanker Safety Act of 1978 (Public Law 95–474).

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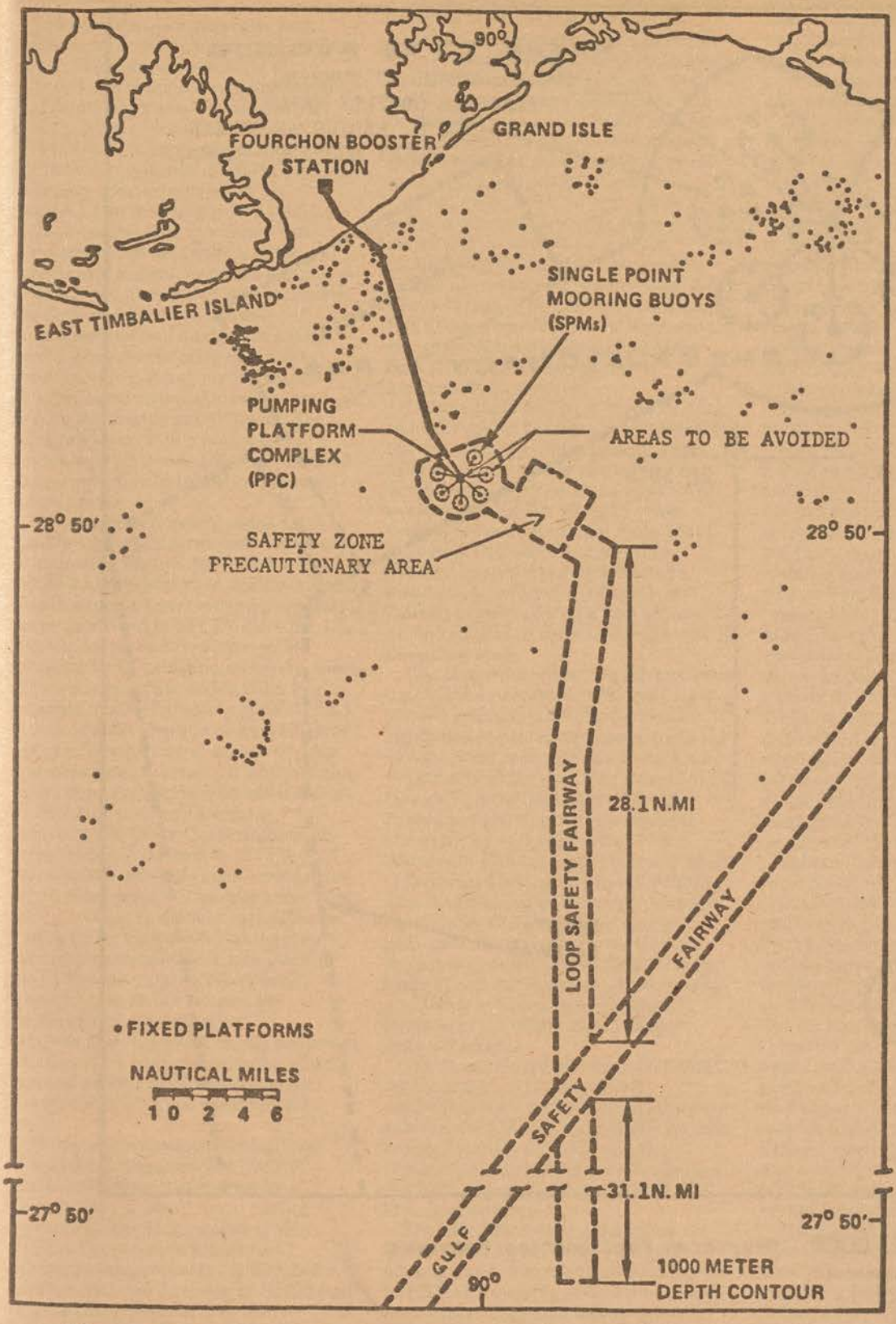


Figure 2: Deepwater Port Routing Measures

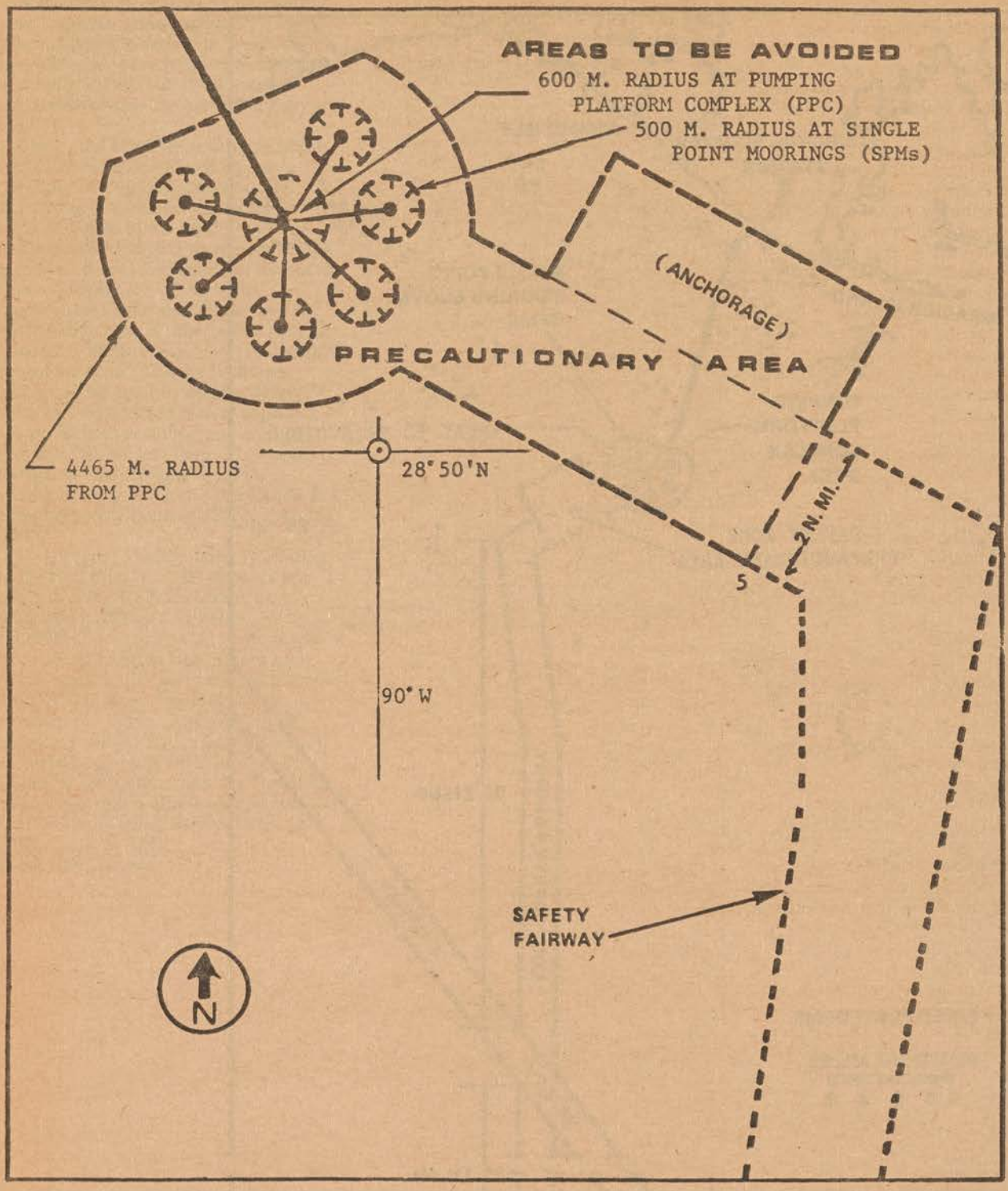


Figure 3: LOOP Deepwater Port Routing Measures

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Discussion

The purpose of a deepwater port safety zone is to define an area in which any activity that may directly or indirectly increase the environmental and safety risks associated with port operation may be minimized or prohibited. The concept includes institution of appropriate ships' routing measures and the regulation of navigation in the vicinity of a port, as well as control over structures and installations on the seabed, in the superjacent waters, or on the surface, necessary to assure that port functions are performed with acceptable environmental and navigation safety levels. Thus the function of a safety zone is to protect human life, secure economic and national interests, and protect the marine environment. The rules proposed in this notice for governing vessel activities are intended to be applicable to LOOP and to any future ports.

Deepwater port safety zones are specifically established under authority contained in Section 10(d) of the Act. While their purposes are similar in some respects to ports and waterways safety zones described in 33 CFR, Part 165, i.e., provide for marine environmental protection and navigational safety, there are some distinctive differences. For example, unlike the safety zone defined in Part 165, the Captain of the Port does not specifically control access to deep water port safety zones. In addition, the safety zone defined in Part 165 is based on different statutory authority. Similarly, the Outer Continental Shelf safety zones described in 33 CFR, Part 147, while in principle also having some of the same purposes as deepwater port safety zones, are distinctively different. Future Coast Guard rulemaking may eventually consolidate in one place in the CFR these varying safety zone requirements. In the interim, the deepwater port safety zone requirements discussed in this document should not be confused with the other types of safety zones and regulated navigation and vessel traffic service areas.

The Inter-Governmental Maritime Consultative Organization (IMCO) vessel routing masure known as a "precuationary area", i.e., a routing measure comprising an area within definite limits where ships must navigate with particular caution and within which the direction of traffic flow may be recommended, has been adopted as the concept for U.S. deepwater port safety zones.

The purpose of the safety zone is to avoid marine casualties and polution at a port's focal point, which includes the pumping platform complex (PPC), pipelines, single point moorings (SPM) with related floating and submerged oil transfer hoses, and tankers. All vessel traffic movement in a safety zone will be directed by a vessel traffic supervisor employed by the port. This individual will maintain radar surveillance of all movements in the port vicinity.

Within the depwater port safety zone—precuationary area, there is a 600 meter radius "area to be avoided" around the PPC and 500 meter radius "areas to be avoided" around each SPM. These "areas to be avoided" conform to IMCO measures to keep ships or certain classes of ships outside a delineated area within which navigation is particularly hazardous.

Only tankers calling at a port or port-related support vessels are permitted in the areas to be avoided around each SPM at the port. Only port support vessels area allowed in the area to be avoided around the PPC. All other vessels are excluded from these areas. However, limiting the areas to be avoided to only 600 and 500 meters, respectively, around the fixed and floating components at a port allows permitted uses of the remaining areas of the safety zone.

The above described routing measures constitute a deepwater port traffic service aimed at reducing the risk of casualties to port components, tankers calling at the port, and other vessels in the vicinity of the port. The Coast Guard intends to have the National Ocean Survey publish appropriate nautical charts of the waters in which U.S. deepwater ports are sited that will show the configuration of all related offshore areas comprising each deepwater port safety zone and attendant routing measures. Further, the Coast Guard proposes to amend Part 150 of Title 33, Code of Federal Regulations, by adding additional requirements designed to implement the safety zone concept outlined above.

The Coast Guard has consulted IMCO on the ships' routing measures associated with the U.S. deepwater port safety zone concept, specifically as that concept applies to LOOP and the regulations concerning vessel activities that will be permitted or prohibited at U.S. deepwater ports.

The Maritime Safety Committee of IMCO, in its report of May 23, 1979 adopted, and this was confirmed by the full IMCO Assembly at its 11th session, the navigation precuationary area and seven areas to be avoided at LOOP.

Existing Coast Guard regulations at 33 CFR 150, Subpart C, Vessel Navigation, specify general procedural rules governing navigation of all vessels at a deepwater port. These regulations, established in 1975, also define the specific duties and responsibility of a port's vessel traffic supervisor for the overall management of vessel activity.

Since 1975, two U.S. deepwater ports have been licensed and IMCO has considered the need for appropriate ships routing measures in the vicinity of the LOOP port which is the one now under construction. In view of these events, the Coast Guard finds it necessary to generally update the deepwater port vessel navigation requirements by revising Subpart C to reflect the results of the deepwater port license application review processes and IMCO action on deepwater port safety zone matters.

Many of the changes proposed in this notice are of an editorial nature, to clarify terminology used in describing a deepwater port safety zone and thus make the subpart easier to understand. For example, since a deepwater port safety zone designated during a license application review process generally includes specific ships' routing measures and port anchorage areas, the phrase "safety zone, TSS, and anchorage area" presently used throughout this subpart is ambiguous. Further, all deepwater port safety zones may not necessarily include the traffic separation scheme (TSS) routing measure, which is determined during the license application review process for a specific port proposal. Thus, it is proposed to revise the subpart by deleting references throughout to "TSS and anchorage area" as a part of the safety zone.

Substantive noneditorial changes to the subpart are discussed below.

Section 150.301 describes the scope of the rules in Subpart C of Part 150. Since this notice proposes restrictions on certain types of vessel activities at deepwater ports, it is proposed to modify the applicability statement in this section accordingly.

Further, immediately following the applicability statement in § 150.301, it is proposed to add a cross reference note that states where additional information may be found regarding specific designated deepwater port safety zones and attendant ships' routing measures where the vessel navigation regulations in this subpart are applicable.

Section 150.303 defines the terms "Separation zone or line" and "Traffic lane." The reason those terms were originally defined is that they were used in the subpart in reference to the term "Traffic separation scheme (TSS)" as defined in § 148.3 of this chapter. IMCO, in its review of the LOOP safety zone, considered the planned use by the

United States government of a TSS as a ships' routing measure for the port inappropriate for several technical reasons. The principal reason was that there was no provision for, nor did there appear to be sufficient room in the LOOP port layout for, a traffic lane in each direction. Therefore, this rulemaking proposes to revise §§ 148.3 and 150.303 by deleting these definitions. This rulemaking also proposes to delete the definition "other vessel" as this term is now clarified in the text where it appears throughout the subpart to mean a vessel other than a tanker or support vessel.

Section 150.305 presently requires a deepwater port licensee to have a TSS that conforms to an IMCO resolution dated November 20, 1973. Since that regulation was established, the Coast Guard has concluded from its deepwater port license application review experiences and IMCO considerations of deepwater port safety zone matters that there are internationally recognized ships' routing measures other than TSSs that may more appropriately apply to the U.S. deepwater port safety zone concept. Thus, it is proposed to completely modify this section to provide the flexibility to require, on a case-by-case basis, depending on each deepwater port safety zone proposal, such ships' routing measures as considered necessary by the Coast Guard for safe navigation at a port. The mandatory requirement to have a TSS at a deepwater port is specifically removed from the section. However, TSSs would still remain an option under this modification.

Section 150.307 presently requires a port Vessel Traffic Supervisor to maintain radar surveillance at the port under defined conditions relative to tankers calling at the port. Since these proposed regulations define additional vessel activities that will be permitted or prohibited in the port areas, it is proposed to amend § 150.307 to include radar surveillance of these other vessels. This will encourage the Vessel Traffic Supervisor to monitor all vessel traffic in the port vicinity to ensure that vessels will not interfere with or constitute a safety or environmental risk to port operations, and perhaps afford additional response time for appropriate remedial action. The section has also been reworded to remove the necessity for continuous radar surveillance by the Vessel Traffic Supervisor when vessels in the safety zone are not underway.

Paragraph (b) of § 150.315 presently allows a port Vessel Traffic Supervisor to direct movements of support vessels that are contrary to a TSS, to facilitate operations with arriving and departing tankers. Since that rule was established in 1975, Rule 10 of the International Regulations for Preventing Collisions at Sea has come into effect. Rule 10 is now the controlling rule for vessel movements in a TSS. Therefore, it is proposed to delete paragraph (b) of § 150.315 and reletter paragraph (c) of that section as (b).

The additional regulation of vessel activities is proposed in a new § 150.345. This section contains a matrix of vessel activities permitted or prohibited at a deepwater port and the controls on those activities. The matrix is presented as a table, for ease of reference and use by persons to which the section applies.

The proposed § 150.345 would define the type of vessel activities, by general kind of vessel, that will be either permitted or prohibited in the various safety zone areas. Also included is the type of controls that will be placed upon those activities.

Among the vessel activities to be regulated are movements by tankers, support vessels and other vessels (as defined in § 150.303) in the various areas of a deepwater port. There are also the requirements concerning fishing vessels, mobile offshore drilling operations, non-port related offshore structures, and lightering/transhipment operations.

Paragraph (b) of the proposed new § 150.345 is a safety requirement that provides for Coast Guard oversight over other types of vessel activity that should probably be specified by regulation as either permitted or prohibited at a deepwater port, but which are not identifiable at this time due to insufficient knowledge of or lack of experience with U.S. deepwater port operations. This paragraph would permit the appropriate Coast Guard Captain of the Port to determine on a case-by-case basis a vessel activity other than those identified in paragraph (a) of this section as permitted or prohibited at a deepwater port.

It is anticipated that except within the areas to be avoided around each fixed or floating port component, commercial fishing and other vessel activity will be permitted in deepwater port safety zones when such activity does not interfere with the safety of moored or maneuvering tankers at the port. Within a safety zone, all vessel activity incompatible with port operations and non-port related installations and structures will be prohibited.

On February 25, 1976, the Coast Guard designated as the safety zone for the proposed LOOP port, the safety zone recommended by LOOP in its application for a license. This action was taken under Section 10(d) of the Deepwater Port Act of 1974. Appendix A to Part 150 describes deepwater port safety zone and shipping safety fairway boundaries that resulted from the LOOP license application review processes and IMCO actions on safety zone matters. It is proposed to publish this material as an appendix to Part 150 for convenient reference by those persons who are obliged to comply with the deepwater port vessel navigation requirements of Subpart C of this part.

Environmental Consequences

The Coast Guard has reviewed and analyzed the probable environmental impacts of promulgating the U.S. deepwater port safety zone regulations proposed in this notice. A discussion of the impacts and various regulatory alternatives as regards LOOP, was included in the Final Environmental Impact Statement prepared by the Coast Guard during the license application review process for that specific project. For the federal action now under consideration, issuance of these proposed regulations, the environmental consequences remain essentially as addressed in the Final EIS for the LOOP license application.

Regulatory Evaluation

This rulemaking proposal has also been reviewed for economic effects and a draft regulatory evaluation has been prepared in accordance with Department of Transportation Regulatory Policies and Procedures (44 FR 11034–45) of February 26, 1979. The evaluation includes identification of resource availability loss to commerical and recreational fishing activities over the life of the LOOP project. The economic consequences principally revolve about commercial fishing activities at the port. The Coast Guard has determined that there will not be a significant adverse economic effect on fishing activities caused by this regulatory action. A copy of the Draft Regulatory Evaluation may be obtained by submitting a request to the Commandant (G–CMC/TP24) at the address listed at the beginning of this notice.

The regulatory proposals in this notice are being advanced by the Coast Guard as necessary measures to prevent or minimize pollution of the marine environment, enhance navigational safety in the port areas, to meet its statutory obligations, and to otherwise generally avoid any adverse impacts that could arise from the construction and operation of U.S. deepwater ports. They will affect existing and prospective deepwater port licensees, port personnel, and persons in charge of

tankers calling at a port, as well as persons in charge of certain other vessels at or in the vicinity of a port. Any person who willfully violates any provisions of these rules will be subject to the penalties described under Section 15 of the Act.

Although the proposed safety zone regulations, when finalized, will apply to vessel activities at the only one U.S. deepwater port presently licensed and under construction, it is intended that any additional ports that may be authorized in the future will also come under these rules. The Coast Guard recognizes that its environmental and economic consequence review of this regulatory action focused primarily upon the impacts associated with the one particular deepwater port already authorized. As specific additional port proposals are advanced, appropriate safety zones will be designated, and a review of the environmental and economic consequences of regulating vessel activities therein will be undertaken, with public participation, during the license application review process.

The revisions arising from this rulemaking action will be promulgated in a final rule document expected to be issued in June,1980, and will become effective 30 days after publication in the **Federal Register**, well advance of the commencement of the first U.S. deepwater port oil transfer operations.

In consideration of the foregoing, it is proposed to amend Title 33, Code of Federal Regulations, Subchapter NN, Deepwater Ports, as follows:

§ 148.3 [Amended].

1. In § 148.3, by deleting the definition of the term "Traffic separation scheme (TSS)".

2. In § 148.3, by revising the definition of "Marine site" to read as follows:

§ 148.3 Definitions.

* * * * *

"Marine site" means the area in which the deepwater port is located, and includes the safety zone, attendant ships' routing measures, each anchorage area, and all areas seaward of the high water mark in which associated components and equipment of the deepwater port are located.

* * * * *

3. In § 148.109, by revising paragraphs (j)(1)(iv) and (1)(4) to read as follows:

§ 148.109 Contents for application for issuance of a license.

* * * * *

(j) * * *

(1) * * *

(iv) Recommended ships' routing measures and proposed vessel traffic patterns in the port area;

* * * * *

(1) * * *

(4) The speed limits proposed for tankers in the safety zone.

* * * * *

4. By amending the Table of Contents for Part 150, Subpart C, to conform to editorial changes and reflect the addition of a new § 150.345, to read as follows:

Subpart C—Vessel Navigation

* * * * *

Sec.

150.305 Ships' routing measures.

* * * * *

150.335 Report before entering safety zone.

150.337 Navigation of tankers in the safety zone.

150.338 Navigation of support vessels in the safety zone.

150.339 Navigation of other vessels in the safety zone.

150.341 * * *

150.342 * * *

150.345 Regulated vessel activities.

* * * * *

5. By revising Part 150, Subchapter C—Vessel Navigation, to read as follows:

Subpart C—Vessel Navigation

§ 150.301 Applicability.

This subpart prescribes rules that:

(a) Apply to the navigation of all vessels at or near a deepwater port; and

(b) Describe vessel activities permitted and prohibited in a deepwater port safety zone.

Note.—Appendix A to this part describes the designated boundaries of U.S. deepwater port safety zones and shipping approach fairways leading to those ports. Included within the safety zones are specific areas to be avoided, anchorages, and other ships' routing measures as may be associated with particular safety zones.

§ 150.303 Definitions.

"Support vessel" means a tug, linehandling boat, crewboat, workboat, supply vessel, bunkering vessel, barge, or other similar vessel working for the licensee in connection with the operation of the deepwater port or cleared by the licensee to service a tanker calling at the deepwater port.

"Tanker" means a vessel that calls at a deepwater port to load or discharge oil at an SPM.

§ 150.305 Ships' routing measures.

No licensee may operate a deepwater port unless the port has such ships' routing measures as considered necessary by the Coast Guard to provide for safe navigation at or near the deepwater port.

§ 150.307 Radar surveillance.

The Vessel Traffic Supervisor shall maintain radar surveillance of the safety zone whenever—

(a) A tanker is proceeding to the safety zone after submitting the report required in § 150.335; or

(b) A tanker or support vessel is underway in the safety zone;

(c) A vessel other than a tanker or support vessel is about to enter or is underway in the safety zone.

§ 150.309 Advisories to tankers.

(a) The Vessel Traffic Supervisor shall advise the master of each tanker underway in the safety zone of the tanker's position and track at intervals not to exceed 10 minutes.

(b) Whenever the Vessel Traffic Supervisor determines that a vessel may potentially interfere with the movement of a tanker in the safety zone, the Vessel Traffic Supervisor shall keep the master of the tanker informed of the position and estimated track and speed of the vessel as necessary to assist the tanker in navigation within the safety zone.

(c) Whenever a tanker enters the safety zone, the Vessel Traffic Supervisor shall advise the tanker of the position of each other vessel moored, anchored, or underway in the safety zone.

§ 150.311 Radio listening watch.

Whenever a tanker is in the safety zone, the Vessel Traffic Supervisor and the master of the tanker shall each continuously monitor the radio frequency designated in the Operations Manual for use by tankers and support vessels underway at the port, except when transmitting on that frequency.

§ 150.313 Clearances for tankers.

(a) The Vessel Traffic Supervisor may not clear a tanker to enter the safety zone unless:

(1) Each other tanker underway in the safety zone is at least 5 miles from the tanker requesting clearance to enter the safety zone; and

(2) A Mooring Master is on board or ready to board a designated position in the port approach area that will permit completion of boarding before the tanker enters the safety zone.

(b) The Vessel Traffic Supervisor may not clear a tanker to moor at an SPM unless:

(1) There is an SPM berth available and the Vessel Traffic Supervisor has assigned that berth to the tanker;

(2) The visibility in the safety zone is at least two miles;

(3) All operating conditions prescribed in the Operations Manual for mooring to an SPM have been met; and

(4) A Mooring Master and an assistant Mooring Master are on board.

(c) The Vessel Traffic Supervisor may not clear a tanker to depart from an SPM unless the visibility is at least two miles and a Mooring Master is on board.

(d) No tanker may enter the safety zone or moor at or depart from an SPM, unless the master of the tanker has obtained clearance from the Vessel Traffic Supervisor, except as permitted by paragraph (e) of this section.

(e) A tanker may, in an emergency, for the protection of life or property, depart from an SPM without clearance from the Vessel Traffic Supervisor if the master advises the Vessel Traffic Supervisor of the circumstances, by radio, at the earliest possible moment.

§ 150.315 Clearances for support vessels.

(a) The Vessel Traffic Supervisor shall direct support vessel movements within the safety zone.

(b) The Vessel Traffic Supervisor may clear support vessels to enter the safety zone at any point.

§ 150.317 Clearances for other vessels.

(a) When requested by the master of a vessel other than a tanker or support vessel, the Vessel Traffic Supervisor shall furnish information concerning other vessels underway or moored in the safety zone.

(b) If the Vessel Traffic Supervisor determines that a vessel other than a tanker or support vessel may be standing into danger with respect to any vessel or part of the deepwater port installation in the safety zone, the Vessel Traffic Supervisor shall attempt to inform the master of that vessel by radio or other means.

(c) Except in situations involving force majeure, the Vessel Traffic Supervisor shall not clear other vessels to call at the deepwater port for any purpose that would interfere with the purpose of the deepwater port; endanger the safety of life, property, or the environment; or otherwise be prohibited by regulation.

§ 150.333 Advance notice of arrival.

(a) The master of a tanker bound for a deepwater port shall report the following information to the Captain of the Port and the Vessel Traffic Supervisor of the port at least 24 hours before entering the safety zone at the port:

(1) The name, gross tonnage, and draft of the tanker.

(2) The type and amount of cargo on board.

(3) any conditions on the vessel that may impair the navigation of the vessel, such as fire, defective propulsion machinery, defective steering equipment, or limitations on navigational or radiotelephone capabilities because of equipment or material defects.

(4) Any leaks, structural damage, or machinery defects that may impair cargo transfer operations or cause a discharge of oil.

(b) If the information reported in paragraph (a)(3) or (a)(4) of this section changes at any time before entering the safety zone, or while the tanker is in the safety zone, the master of the tanker shall report the changes to the Captain of the Port and Vessel Traffic Supervisor as soon as possible.

§ 150.335 Report before entering safety zone.

The master of a tanker bound for a deepwater port shall notify the Vessel Traffic Supervisor of the port when the tanker is 20 miles from the entrance to the safety zone.

§ 150.337 Navigation of tankers in the safety zone.

(a) A tanker must not enter or depart a safety zone except via a designated safety fairway, unless under force majeure.

(b) A tanker must not anchor in the safety zone except in a designated anchorage area unless under force majeure.

(c) A tanker underway in a safety zone must keep at least 5 miles behind any other tanker underway ahead of it in the safety zone.

(d) A tanker must not operate, anchor, or be moored in any area of the safety zone in which the net underkeel clearance would be less than 5 feet.

§ 150.338 Navigation of support vessels in the safety zone.

(a) A support vessel must not enter or move within the safety zone unless the movement is cleared by the Vessel Traffic Supervisor.

(b) A support vessel must not anchor in the safety zone, except in an anchorage area or for maintenance operations cleared by the Vessel Traffic Supervisor.

§ 150.339 Navigation of other vessels in the safety zone.

Vessels other than tankers or support vessels must not call at a deepwater port unless clearance has been obtained from the Vessel Traffic Supervisor.

§ 150.341 Mooring Master.

A tanker must not be underway in the safety zone unless a Mooring Master is on board.

Note.—The Mooring Master advises the vessel's master on operational and ship control matters that are peculiar to the specific deepwater port, such as navigational aids, depth and current characteristics of the maneuvering area, mooring equipment and procedures, and the port's vessel traffic control procedures.

§ 150.342 Assistant Mooring Master.

A tanker must not moor at an SPM unless an Assistant Mooring Master is on board.

Note.—The Assistant Mooring Master is stationed on the forecastle of the tanker during mooring operations to assist the Mooring Master by reporting position approach data relative to the SPM and to advise the tanker personnel in the handling of mooring equipment peculiar to the deepwater port.

§ 150.345 Regulated vessel activities.

(a) Vessel activities permitted and prohibited at deepwater ports, controls on those activities, and the specific safety zone areas in which the controls apply are listed in Table 150.345(a)

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TABLE 150.345(a)

Regulated Vessel Activities at Deepwater Ports

REGULATED VESSEL ACTIVITIES	SAFETY ZONE PRECAUTIONARY AREA		
	'Areas to be avoided' around each PPC and SPM [1]	Anchorage Area	Remaining portion of precautionary area
Tankers calling at Port	C	C	C
Support Vessel Movement	C	C	C
Transit by Other Vessels	N	P	P
Mooring by Other Vessels to SPM	F	-	-
Anchoring by Other Vessels	N	F or P	N
Fishing, including Bottom Trawl (Shrimping)	N	P	P
Mobile Drilling Operations or erection of structures [2]	N	N	N
Lightering/ Transshipment [3]	N	N	N

1. The radius of areas to be avoided around each PCC is 600 meters and around each SPM is 500 meters.

2. Not part of Port Installation.

3. Exception, 33 CFR 150.423(e).

NOTE: Any vessel planning to enter a safety zone precautionary area is requested to contact the Port Vessel Traffic Supervisor on Ch. 10 VHF-FM and comply with his or her instructions.

KEY TO REGULATED ACTIVITES

F- FORCE MAJEURE
N- NOT PERMITTED
C- TANKERS CALLING AT PORT AND SUPPORT VESSELS: PERMITTED WHEN CLEARED BY VESSEL TRAFFIC SUPERVISOR
P- OTHER VESSELS: PERMITTED WHEN NOT IN IMMEDIATE AREA OF TANKER, CLEARANCE BY VESSEL TRAFFIC SUPERVISOR REQUIRED. COMMUNICATIONS WITH VESSEL TRAFFIC SUPERVISOR REQUIRED. FOR FOREIGN FLAG VESSELS, THIS REQUIREMENT FOR CLEARANCE IN THE SAFETY ZONE PRECAUTIONARY AREA IS ADVISORY IN NATURE.

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(b) The permission of the Captain of the Port having jurisdiction over a deepwater port must be obtained for any vessel activity at the port which is not listed in Table 150.345(a) or otherwise provided for in this subpart.

* * * * *

Appendix A [Added].

6. By adding a new appendix at the end of Part 150, to read as follows:

Appendix A—Deepwater Port Safety Zone and Shipping Safety Fairway Boundaries

I. *Purpose.* This appendix contains a general description of the deepwater port safety zone and shipping safety fairways designated and developed during the license application review process for each deepwater port that has been authorized for construction and operation off the United States' coastline. Included in annexes hereto is a description, to the nearest second of latitude and longitude, of the geographical boundaries of each resultant safety zone and shipping fairway.

The regulations in Subpart C of this part concerning vessel navigation and activities permitted and prohibited at U.S. deepwater ports apply only in the safety zone areas and adjacent waters, and supplement the International Regulations for Preventing Collisions at Sea.

II. *Authority.* Section 10(d) of the Deepwater Port Act of 1974 (88 Stat. 2138 (33 U.S.C. 1509(d)) and Section 4(c) of the Ports and Waterways Safety Act, as amended (33 U.S.C. 1223(c)); 49 CFR 1.46.

III. *General.* Deepwater port safety zones are established to promote safety of life and property, marine environmental protection and navigational safety at any deepwater port and adjacent waters. In a deepwater port safety zone no installations, structures, or uses that are incompatible with port operations are permitted. The configuration of each designated safety zone is depicted on current editions of the navigational charts that cover the deepwater port area.

IV. *Modifications.* Safety zone and shipping safety fairway boundaries are subject to modification as experience is gained in U.S. deepwater port operations. Modifications will be made only after due notification and consideration of the views of interested persons.

Annex A—LOOP, Inc. Deepwater Port, Gulf of Mexico

(a) *Deepwater Port Safety Zone:*

(1) Starting at:

Latitude N.	*Longitude W.*
28°55'23"	90°00'37"

(2) A rhumb line to:

28°53'50"
90°04'07"

(3) Then an arc with a 4,465 meter radius centered at the port pumping platform complex (PPC),

28°53'06"	90°01'30"

(4) To a point:

28°51'08"	89°59'55"

(5) Then a rhumb line to:

28°48'36"	89°55'00"

Latitude N.	*Longitude W.*

(6) Then a rhumb line to:

28°52'04"	89°52'42"

(7) Then a rhumb line to:

28°54'05"	89°56'38"

(8) Then a rhumb line to:

28°52'21"	89°57'47"

(9) Then a rhumb line to:

28°52'51"	89°58'46"

(10) Then an arc with a 4,465 meter radius centered again at the port PPC:

28°53'06"	90°01'30"

(11) To the point of starting:

28°55'23"	90°00'37"

(b) *Areas to be Avoided.* The seven areas within the safety zone to be avoided are as follows:

(1) The area encompassed within a circle having a 600 meter radious around the port PPC and centered at:

Latitude N.	*Longitude W.*
28°53'06"	90°01'30"

(2) The six areas encompassed within a circle having a 500 meter radius around each single point mooring (SPM) at the port and centered at:

Latitude N.	*Longitude W.*
28°54'12"	90°00'37"
28°53'16"	89°59'59"
28°52'15"	90°00'19"
28°51'45"	90°01'25"
28°52'08"	90°02'33"
28°53'07"	90°03'02"

(c) *Anchorage Area.* The area within the safety zone enclosed by rhumb lines joining points at:

Latitude N.	*Longitude W.*
28°52'21"	89°57'47"
28°54'05"	89°56'38"
28°52'04"	89°52'42"
	°50'20"
	89°53'51"

(d) *Shipping Safety Fairway Approaches to Safety Zone.* The two mile wide areas enclosed by rhumb lines joining points at:

(1) North of Gulf Safety Fairway.

Latitude N.	*Longitude W.*
28°48'36"	89°55'00"
28°48'14"	89°54'17"
28°45'47"	89°54'19"
28°36'06"	89°55'44"
28°18'30"	89°55'15"
28°20'58"	89°53'03"
28°36'09"	89°53'28"
28°49'07"	89°51'30"
28°50'20"	89°53'51"

(2) South of Gulf Safety Fairway:

Latitude N.	*Longitude W.*
28°15'20"	89°55'10"
27°46'29"	89°54'23"
27°46'32"	89°52'08"
28°17'48"	89°52'58"

(Sec. 10(a)(b)(d), 88 Stat. 2137–38 (33 U.S.C. 1509(a)(b)(d)); Sec. 4(c), 92 Stat. 1473–74 (33 U.S.C. 1223(c)); 49 CFR 1.46)

Dated: February 7, 1980.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 80-4486 Filed 2-13-80; 8:45 am]

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Part III

Department of Transportation

Federal Aviation Administration

Airport Aid Program; Civil Rights Provisions

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 152

[Docket No. 16419; Amdt. No. 152-9]

Airport Aid Program; Civil Rights

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments are being issued to ensure compliance with the statutory requirements of Section 30, Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*), that no person is excluded on the grounds of race, creed, color, national origin, or sex from participating in any activity for airport development, airport master planning, or airport system planning conducted with funds received from any grant made under the Airport Aid Program. This action is required by Congressional legislation.

EFFECTIVE DATE: March 17, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Irene H. Mields, Attorney Advisor, General Legal Services Division, Personnel and Labor Law Branch (AGC-14), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 426-3765.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of this final rule by a notice of proposed rulemaking (Notice No. 77-1) issued on January 11, 1977, and published in the **Federal Register** on January 13, 1977 (42 FR 2850). Due consideration has been given to all comments received in response to the notice. Except as otherwise discussed, they are reflected in this amendment. The FAA recognizes, however, that events which have transpired since the comment period closed in 1977, may require adjustments to the rule after implementation. The FAA therefore will continue to accept comments for one year, following the date the rule becomes effective. If appropriate, it will be amended after consultation with the Equal Employment Opportunity Commission, as required by Executive Order 12067.

The final rule also responds to two major developments at the national level: (1) The President's Civil Rights Reorganization as contained in Reorganization Plan Number 1 of 1978 (43 FR 19807; May 9, 1978) and (2) Issuance of Executive Order 12044, Improving Government Regulations (43 FR 12661; March 24, 1978).

The majority of the 135 commenters expressed two chief concerns:

1. They perceived the requirements of the NPRM as duplicative of, or in conflict with, those of other agencies having responsibility for equal employment opportunity enforcement.

2. They felt the requirements would result in undue administrative burdens.

During the same time frame, the research efforts of a number of Presidential Task Forces uncovered similar problems in the administration of civil rights programs as a whole. Their conclusions resulted in the incorporation of two programs of civil rights consolidation in Reorganization Plan Number 1. The first was implemented by Executive Order 12067 (43 FR 28967; July 5, 1978), assigning to the Equal Employment Opportunity Commission the leadership role for all Federal efforts relating to equal employment opportunity. The second, consolidating the contract compliance programs under Parts II and III of Executive Order 11246 in the Department of Labor, was implemented by Executive Order 12086 (43 FR 46501; October 10, 1978).

Also during this same time frame, the President acted to simplify regulatory procedures through the issuance of Executive Order 12044, Improving Government Regulations (43 FR 12661; March 24, 1978). Section 1 of the Executive Order requires that regulations be as simple and clear as possible, and that they achieve legislative goals effectively and efficiently. In addition, Executive Order 12044 requires that regulations impose no unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments.

The FAA believes that this amendment meets the President's regulatory criteria and has determined that it lends support to the Civil Rights Reorganization Program. In accordance with section 1-304 of Executive Order 12067, the DOT has submitted this amendment formally to the Equal Employment Opportunity Commission for review. In addition, the amendment has been provided for comment to the Office of Federal Contract Compliance Programs, the Department of Labor, and the Department of Justice.

It should be noted that the Civil Rights Reorganization is based not only on the premise that duplication should be avoided, but that effort should be maximized. Section 1-201 of Executive Order 12067 contains a mandate to the Equal Employment Opportunity Commission to that effect. The FAA has conformed the provisions of this amendment to the Executive Order, as discussed below. The discussion is divided into two parts. The first explains major changes in the overall structure of the final rule. The second part deals with specific comments, received during the public comment period.

I. General Discussion

As part of its efforts to avoid overlap and duplication, the FAA has worked closely with the Office of the Secretary of Transportation to coordinate its revision of the amendment with new developments in the Department. These new developments have included the drafting, by the Secretary of Transportation, of a proposed rule for Minority Business Enterprise Programs and a proposed revision to 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964 (See Regulations Agenda, 43 FR 23884, June 1, 1978).

In view of these documents, the FAA has deleted from this amendment all specific requirements relating to the utilization of minority and female entrepreneurs. Instead, Section 152. 419, as adopted, requires compliance with the requirements of the Department's Minority Business Enterprise Regulation in its final form (scheduled for publication in 49 CFR Part 23). Use of the Minority Business Enterprise regulation to implement the FAA's section 30 responsibilities will result in a uniform program throughout the Department, avoid duplication of record-keeping and reporting, and prevent the imposition of multiple requirements.

Secondly, the FAA has deleted all references to requirements similar to those of Title VI of the Civil Rights Act of 1964 or 49 CFR Part 21, regulations of the Department of Transportation implementing Title VI. In the NPRM, these requirements related to nondiscrimination in the provision of public accommodations, services, and other benefits to persons who may be subject to discrimination on the basis of sex or creed. Section 152.421, as adopted, incorporates by reference all the requirements of 49 CFR Part 21, thereby prohibiting discrimination on the basis of sex or creed in FAA Federal financial assistance programs in the same manner that Title VI prohibits discrimination on the basis of race, color, or national origin. 49 CFR Part 21 also calls for affirmative action, where appropriate. Incorporation of Part 21 requirements by reference will ensure uniformity of treatment of beneficiaries

and prevent needless repetition in rulemaking.

The FAA also has deleted proposed Sections 152.165 through 152.173, relating to complaints, procedures for effecting compliance, hearings, decisions and notices, and judicial review. Section 152.423 provides for the use of the procedures required in 49 CFR Part 21 for these actions. In addition, under Section 1.47(f) of the Regulations of the Secretary (49 CFR 1.47(f)), the Administrator of the FAA may conduct investigations as considered necessary to carry out the provisions of the Airport and Airways Development Act of 1970, as amended. The investigation procedures established by the Administrator are contained in 14 CFR Part 13, Investigation and Enforcement Procedures, and also may be used for the investigation of noncompliance with this subpart. Section 152.423, as adopted, contains a cross-reference to 14 CFR Part 13.

Noncompliance with the requirements of the Department's Minority Business Enterprise (MBE) regulation will be investigated and enforced through the procedures contained in the MBE regulation. Allegations of noncompliance with Federal employment requirements which the Equal Employment Opportunity Commission, the Department of Labor, or other agencies enforce will be referred to those agencies for enforcement. In these instances, Part 13 investigative procedures and 49 CFR Part 21 procedures will be used to supplement or enhance the investigative and enforcement authority of other agencies. Following a finding on the record by any such agency, the FAA will adopt the finding as its own and determine whether grant-related sanctions should be imposed in addition to the remedies provided, or other sanctions imposed, by that agency. However, when it appears that deferral to the proceedings of these agencies could result in undue delay and lead to the expenditure of Federal funds without compliance with this subpart, the FAA may initiate proceedings.

It should be noted that Part 13 investigative procedures will be utilized in conjunction with procedures established by the Office of the Secretary for the receipt of complaints, on-site investigations, and informal resolutions.

The enforcement procedures as made applicable in this amendment have a threefold effect: (1) They do not disturb procedures established by other agencies for other statutes; (2) They make possible an added sanction for employment discrimination; and (3) They do not duplicate the remedies or sanctions provided elsewhere such as debarment of contractors under 41 CFR Part 60 (Department of Labor regulations to implement Executive Order 11246); those available through a private cause of action under Title VII of the Civil Rights Act of 1964, as amended; or the sanctions for discrimination on the basis of race, color, or national origin under Title VI of that Act.

A fourth major revision concerns the extent to which employment practices are covered in this amendment. In view of the many specific comments on the employment-related sections of the NPRM, this major change is discussed in Part II.

II. Discussion of Specific Comments

A. Employment

Many commenters felt that employment should be excluded totally in a section 30 rule in view of the remedies and sanctions available under Titles VI and VII of the Civil Rights Act of 1964, under Executive Order 11246, and under statutes addressing specific protected groups such as handicapped persons, those over a certain age limit, and veterans.

Since section 30 does not speak to groups such as handicapped persons, veterans, or others who are the subject of specific legislation, this amendment contains no requirements which overlap or duplicate the requirements in regulations implementing that specific legislation.

The Department of Transportation regulations to implement Title VI cover two types of employment discrimination: (1) employment practices of a grantee and other covered persons that impact unfavorably upon beneficiaries, and (2) discrimination in programs designed to provide employment. Complaints under the Title VI regulations, however, may not be brought on the basis of sex or creed. Section 30 and this subpart affords this right to complainants, thereby supplementing the Title VI regulations rather than conflicting with them.

Similarly, this subpart does not conflict with Title VII, but supplements its coverage through the establishment of positive affirmative action requirements. These affirmative action requirements are designed to strengthen Title VII, which operates largely in response to complaints rather than as an affirmative action tool. Further, the affirmative action requirements contained in this Subpart are designed to avoid conflict with requirements that may exist in other programs related to Title VII, including those of the Department of Labor, implementing Executive Order 11246. This subpart also makes possible the imposition of grant-related sanctions for noncompliance with, or discrimination in, employment programs, not possible under Title VII or Executive Order 11246.

The FAA also believes that section 30 requires the coverage of employment not presently regulated by other agencies. Employers with less than 15 employees, for example, are not subject to Title VII of the Civil Rights Act and the regulations of the Equal Employment Opportunity Commission.

While this subpart does not afford a private cause of action to employees or applicants of covered employers to obtain the remedies available under Title VII, they do provide for sanctions against recipients and other covered organizations for employment discrimination. As previously stated, however, this does not impair the rights of complainants to seek remedies from other appropriate agencies or to bring their complaints to the attention of the FAA for referral, investigation, or enforcement through the application of sanctions provided in this subpart. That is, under section 30, the FAA does not have authority to make legally binding orders with respect to promotion, back pay, reinstatement, and so forth, as the Equal Employment Opportunity Commission and the courts may make under Title VII. However, employers who are found to have discriminated in violation of section 30 are subject to sanctions, such as the termination of Federal funding. As part of the conciliation process (negotiations with a recipient to resolve a finding of discrimination or noncompliance before sanctions are imposed), a recipient may be required, as a condition of a conciliation, to take action to make employees whole in appropriate cases.

Further, many contractors or tenants on airports, who provide services or supplies to recipients and beneficiaries of Federal financial assistance and other covered organizations, are not subject to Executive Order 11246 and the regulations of the Department of Labor. Similarly, some construction contractors are not covered by Executive Order 11246. Where such employers benefit from the provision of Federal financial assistance to a grantee, or where their employment practices impact upon the public which uses the facilities or participates in the programs of a recipient, the FAA believes it should extend the protection of section 30 to the employees and to the applicants for employment. As in the case of Title VII

remedies, sanctions available elsewhere, such as debarment of contractors under Executive Order 11246, will not be duplicated. As with Title VII, this means that, under section 30, FAA does not have authority parallel to that of the Department of Labor under Executive Order 11246 to make a legally binding order debarring a contractor for employment-related reasons. Grantees are not precluded from taking contract sanctions against covered organizations that violate their assurances, and, as part of the conciliation process, grantees may be required in appropriate cases to impose contract sanctions, as a condition of a conciliation agreement.

The employment requirements stated in Section 152.161 of the NPRM have been replaced by those included within Sections 152.407 through 152.411 of this final rule.

The FAA agrees with commenters, however, that record keeping and other administrative burdens relating to employment should be minimized and that the FAA should avoid duplicating the requirements of other agencies. This matter is discussed further in a succeeding paragraph on "Affirmative Action Plans" and related requirements.

B. Affirmative Action Plans; Affirmative Action Steps; Nondiscrimination Clauses

To minimize paperwork and other administrative burdens, the FAA has revised the requirements on nondiscrimination clauses and affirmative action plans it proposed in Sections 152.155 through 152.161 of the NPRM. The clauses have been replaced by simplified assurances in revised Section 152.405. Section 152.407, as adopted, requires affirmative plans only from (1) airport sponsors that employ 50 or more employees in their aviation workforces and covered organizations which have 50 or more employees located on the sponsors' airports; (2) planning agencies that employ 50 or more employees in their agencies for aviation purposes; and (3) the political entities which administer grants received to develop standards for airport development at general aviation airports, when those entities employ 50 or more employees in their aviation workforces. Where a covered entity has prepared an affirmative action plan acceptable to another Federal agency, it will be deemed that it is in compliance with the requirements set forth in Section 152.409. An affirmative action plan prepared for a State or local authority will be acceptable only if the covered entity has certified that the plan meets the standards of Section 152.409.

Covered organizations which have less than 50 employees as specified, will be required to follow affirmative action steps and keep records relating to equal employment opportunity, under the circumstances stated in Section 152.411, in lieu of preparing an affirmative action plan. If these organizations are subject to an affirmative action plan or steps required by another Federal agency or to a State or local plan or steps which meet the requirements of Section 152.411, they will not be required to keep a separate written account of their steps. They will be expected to make these records available to the FAA, upon request.

As a general rule, organizations subject to review by a another Federal agency will not be reviewed by the FAA. However, the FAA reserves the right to investigate any employment problems of which it becomes aware, to refer them to the appropriate agency for action, or, when it appears that delay could lead to the expenditure of Federal funds without compliance under the Airport Aid Program, to initiate proceedings.

As part of its ongoing program of monitoring the compliance of grantees and other covered organizations, the FAA will "spot check" to ensure that affirmative action plans which are required by the regulations exist and meet applicable standards. This "spot checking" process will be separate from the more detailed compliance reviews which FAA or other compliance agencies undertake of the overall equal employment policies and practices of the grantees and other covered organizations.

Federally assisted construction contractors subject to the goals and timetables established in 41 CFR Part 60, regulations of the Department of Labor implementing Executive Order 11246, will not be required to prepare affirmative action plans or to participate in a program of steps beyond those necessary to comply with 41 CFR Part 60, or be subject to FAA review.

Federally assisted construction contractors, who are not subject to the goals and timetables established in 41 CFR Part 60 (§ 60–4), are required to participate in a program of affirmative action steps, as set forth in Section 152.411 of this subpart.

Construction contractors who are not subject to 41 CFR Part 60, but who benefit from the Federal financial assistance provided to grantees or who participate in projects that are aviation related, as defined in Section 152.403, also will not be required to prepare affirmative action plans. Instead, they will be required to take affirmative action steps as set forth in Section 152.411. Unlike Federally assisted construction contractors, they will be subject to FAA review.

C. Applicability

Many of the comments expressed disagreement with the proposal to make the nondiscrimination clauses and affirmative action plans set forth in proposed Sections 152.155 and 152.159 applicable to certain lessees and sublessees. Commenters contended that section 30 is applicable only to activities conducted with funds received from grants made under Title I of the Act and that lessees and sublessees receive neither grants non monies flowing from grants. The FAA concurs to the extent that nonaviation related lessees and sublessees which provide no services to the airport or the airport public are not related sufficiently to the grant program to warrant coverage. Lessees and sublessees who provide goods or services to the airport or to its users or who are aviation related, however, benefit from the development made possible by those grants. Accordingly, the requirements set forth in this final rule are made applicable to lessees and sublessees of this nature.

Similarly, supply, service, and construction contractors whose activities are aviation related but who are not paid with Federal funds, benefit from the development made possible by Federal grants. The requirements set forth in this final rule are applicable to these categories of organizations.

In effect, all grantees under the Act and all organizations on airports which are "aviation-related activities" (including Federally-assisted construction contractors, other construction contractors, supply and service contractors, lessees, and licensees), as defined in Section 152.403, are subject to the requirements of this subpart, as specified.

D. Monitoring and Enforcement

Twenty-two commenters expressed the view that all monitoring should be the function of the FAA, including that of contractors, subcontractors, lessees and sublessees, and other covered organizations. Commenters felt that grantees are not equipped to perform this function and that relationships between the grantees and these other entities would be adversely affected if grantees were required to monitor the equal employment opportunity performance of others. The FAA concurs that a monitoring role for the grantee poses problems. The FAA therefore will assume the full monitoring role and require grantees to serve merely as the

focal point for the collection of data and compliance information.

To minimize administrative burdens, data and compliance reports have been reduced in number. Certain organizations have been exempted from reporting requirements; and for still others, reporting requirements have been modified to fit the size or status of the organizations in question. In brief, reporting requirements will apply as follows:

1. *Construction Contractors and Subcontractors.* Construction contractors and subcontractors, which are subject to E.O. 11246 and the regulations of the Department of Labor (DOL), are not required to submit reports under this subpart. Instead, the FAA will seek an agreement with the DOL on compliance procedures and information sharing, in order to obtain a comprehensive picture of employment practices of Federal and Federally-assisted contractors on airports.

Construction contractors and subcontractors, which are not subject to E.O. 11246 and the regulations of the DOL, and which have contracts of $10,000 or more, are required to submit a compliance report on an FAA form and a statistical report on a Form 257 or any superseding DOL form at the end of the project. For projects exceeding six months, a midway compliance report also is required.

2. *Covered Organizations with 15 or More Employees (Nonconstruction).* Covered organizations (nonconstruction), with 15 or more employees in the aviation workforce, are required to submit an annual compliance report on an FAA form and an annual statistical report on an EEO–1 or any superseding Equal Employment Opportunity Commission (EEOC) form. Where covered organizations already are submitting the EEO–1 form to another agency, a copy may be used for the FAA statistical submission.

3. *Covered Organizations with Less Than 15 Employees (Nonconstruction).* Covered organizations (nonconstruction), with less than 15 employees in the aviation workforce, are not required to submit compliance reports. They are required, however, to make available to the sponsor an annual count and breakdown of their employment levels. Sponsors are required to aggregate these figures, including their own, if they have less than 15 employees, and to submit this aggregate statistical report to the FAA on an EEO–1 form or any superseding form of the EEOC.

4. *Covered Organizations Subject to Review or Compliance Reports by Other Agencies.* Covered organizations (nonconstruction), which are subject to review or compliance reports under the regulations of another agency, are not required to submit compliance reports to the FAA. They are expected, however, to make the reports available to the FAA upon request during an investigation of a complaint. In addition, these organizations are required to make the annual EEO–1 statistical submission to the FAA.

In all cases, covered organizations shall submit their reports to the sponsor, either directly or through their prime organizations, if they are subcontractors, sublessees, or other suborganizations. The sponsor is required to transmit these reports to the FAA, in accordance with instructions to be supplied by the FAA.

F. Definitions

Many persons submitted comments concerning the definitions set forth in proposed Section 152.153. Most of these commenters stated that "concession" should be defined. This term has been deleted from the final rule. To simplify identification of the organizations which are subject to the requirements of this subpart (in addition to the grantees), the term "Aviation related activity" has been used.

"Aviation related activity" is defined as a commercial enterprise operated on the airport pursuant to an agreement with the airport sponsor (or to a derivative agreement), which maintains on-airport employment and (i) is related primarily to the aeronautical activities taking place on the airport, or (ii) provides goods or services to the public which is attracted to the airport by such aeronautical activities, or (iii) provides services or supplies to other aeronautical or public service airport businesses or to the airport.

Others suggested that the term "underutilization," used in proposed Section 152.161, should be defined to conform with the Department of Labor's definition of that term. The FAA concurs, but has included within the definition a simplified method to determine availability.

G. Retroactivity

The NPRM invited comments on whether the proposed rule should be made retroactively applicable to all grants made under Part 152 between July 12, 1976, and the effective date of the rule, if adopted. Twenty-eight commenters opposed retroactive application on the grounds of questionable legality and undue burden on recipients, contractors, and lessees.

The FAA agrees that the provisions of this amendment should not be made retroactive and notes, in this connection, that the terms of the legislation do not impose retroactivity.

Grantees and other covered organizations are required to comply with this amendment as of its effective date. These include grantees made subject to a clause in their grant agreements established December 16, 1976, requiring compliance with any regulations issued to implement Section 30, if the Federal financial assistance was approved on or after that date.

H. Economic Impact

Twelve commenters questioned the FAA's finding and determination that the proposed rule did not contain a major proposal requiring preparation of an Inflationary (Economic) Impact Statement. In view of the approach taken in this amendment, significantly reducing the administrative requirements and eliminating the duplication pointed out by commenters on the NPRM, the FAA does not believe an Inflationary Impact Statement is necessary for this final rule. However, as required by the Secretary's Procedures for Simplification, Analysis, and Review (Improving Government Regulations), published March 8, 1978 (43 FR 9582), the FAA has prepared a Regulatory Evaluation, calculating the resulting costs of the requirements on the private and governmental sectors. The Regulatory Evaluation also details the benefits and impacts of this final rule. A copy of the Regulatory Evaluation has been placed on file in the public docket and is available for inspection.

In regard to the requirements which will result through compliance with the Department of Transportation Minority Business Enterprise regulation and incorporation by reference of the amendment to 49 CFR Part 21, their inflationary impacts, if any, will be assessed by the Office of the Secretary in conjunction with the NPRMs to be published.

I. Effective Date of Record-Keeping and Reporting Requirements

As adopted by this amendment, the record-keeping and reporting requirements in §§ 152.407, 152.411(c) (1) and (2), 152.415, and 152.417(b) will become effective 30 days after notice has been published in the **Federal Register** that the requirements of those sections have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Adoption of Amendment

Accordingly, Part 152 of the Federal Aviation Regulations is amended, effective March 17, 1980, as follows:

1. By amending § 152.1 by revising the introductory paragraph, and by adding a new paragraph (e), to read as follows:

§ 152.1 Applicability.

This part applies to airport planning and development, and the development of standards by states for airport development at general aviation airports under the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 *et seq.*), including Section 30 as added by the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1730).

* * * * *

(e) Subpart E prescribes civil rights requirements applicable to projects under this part.

2. By amending § 152.7 by revising paragraph (a)(1)(i), and by revising the flush paragraph immediately following paragraph (a)(1)(iii), to read as follows:

§ 152.7 Grant of funds: general policies.

(a) * * *

(1) * * *

(i) Any grant agreement made under the Federal Airport Act (49 U.S.C. 1101 *et seq.*) or the Airport and Airway Development Act of 1970, including section 30 as added by the Airport and Airway Development Act Amendments of 1976;

* * * * *

Denial of a grant of funds, or other sanctions or remedies, for failure to comply with the assurances required under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1), and § 21.7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 21), is based upon a determination under § 21.13 and other applicable provisions of Part 21. Denial of a grant of funds and resort to other legally available remedies for failure to comply with the civil rights requirements of the Airport and Airway Development Act Amendments of 1976, and Subpart E of this part, is based upon a determination of the applicable provisions of this part and the grant agreement.

* * * * *

3. By adding a new Subpart E to read as follows:

Subpart E—Nondiscrimination in Airport Aid Program

§ 152.401 Applicability.

(a) This subpart is applicable to all grantees and other covered organizations under this part, and implements the requirements of section 30 of the Airport and Airway Development Act of 1970, which provides:

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as he deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under Title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of Title VI of the Civil Rights Act of 1964.

(b) Each grantee, covered organization, or covered suborganization under this part shall negotiate reformation of any contract, subcontract, lease, sublease, or other agreement to include any appropriate provision necessary to effect compliance with this subpart by July 17, 1980.

§ 152.403 Definitions.

As used in this subpart—

"AADA" means the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*).

"Affirmative action plan" means a set of specific and result-oriented procedures to which a sponsor, planning agency, state, or the aviation related activity on an airport commits itself to achieve equal employment opportunity.

"Airport development" means—(1) Any work involved in constructing, improving, or repairing a public airport or portion thereof, including the removal, lowering, relocation, and marking and lighting of airport hazards, and including navigation aids used by aircraft landing at, or taking off from, a public airport, and including safety equipment required by rule or regulation for certification of the airport under section 612 of the Federal Aviation Act of 1958, and security equipment required of the sponsor by the Secretary by rule or regulation for the safety and security of persons and property on the airport, and including snow removal equipment, and including the purchase of noise suppressing equipment, the construction of physical barriers, and landscaping for the purpose of diminishing the effect of aircraft noise on any area adjacent to a public airport;

(2) Any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any such work or to remove or mitigate or prevent or limit the establishment of, airport hazards; and

(3) Any acquisition of land or of any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public airport.

"Aviation related activity" means a commercial enterprise—(1) Which is operated on the airport pursuant to an agreement with the grantee or airport operator or to a derivative subagreement;

(2) Which employs persons on the airport; and

(3) Which—(i) Is related primarily to the aeronautical activities on the airport;

(ii) Provides goods or services to the public which is attracted to the airport by aeronautical activities;

(iii) Provides services or supplies to other aeronautical related or public service airport businesses or to the airport; or

(iv) Performs construction work on the airport.

"Aviation workforce" includes, with respect to grantees, each person employed by the grantee on an airport or, for an aviation purpose, off the airport.

"Covered organization" means a grantee, a subgrantee, or an aviation related activity.

"Covered suborganization" is a subgrantee or sub-aviation related activity, of a covered organization.

"Department" means the United States Department of Transportation;

"Grant" means Federal financial assistance in the form of funds provided to a sponsor, planning agency, or state under this part;

"Grantee" means the recipient of a grant.

"Minority" means a person who is—(1) Black and not of Hispanic origin: a person having origins in any of the black racial groups of Africa;

(2) Hispanic: a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race;

(3) Asian or Pacific Islander: a person having origins in any or the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including, but not limited to China, Japan, Korea, the Philippine Islands, and Samoa; or

(4) American Indian or Alaskan Native: a person having origins in any of the original peoples of North America who maintains cultural identification

through tribal affiliation or community recognition.

"Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States (including the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam) or political subdivisions concerned to engage in areawide planning for the area in which assistance under this part is to be used;

"Secretary" means the Secretary of Transportation or an authorized representative of the Secretary within the Department of Transportation;

"SMSA" means Standard Metropolitan Statistical Area.

"Sponsor" means any public agency that, either individually or jointly with one or more other public agencies, submits to the Administrator, in accordance with this part, an application for financial assistance, or that conducts a project for airport development or airport master planning, funded under this part;

"Underutilization" means having fewer minorities or women in a particular job group than would reasonable be expected from their availability in—

(1) The SMSA; or

(2) In the absence of a defined SMSA, in the counties contiguous to the employer's location, or the location where the work is to be performed, and in the areas from which persons may reasonably be expected to commute.

§ 152.405 Assurances.

The following assurances shall be included in each application for financial assistance under this part:

(a) *Assurance.* The grantee assures that it will undertake an affirmative action program, as required by 14 CFR Part 152, Subpart E, to ensure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any employment, contracting, or leasing activities covered in 14 CFR Part 152, Subpart E. The grantee assures that no person shall be excluded, on these grounds, from participating in or receiving the services or benefits of any program or activity covered by this subpart. The grantee assures that it will require that its covered organizations provide assurances to the grantee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

(b) *Assurance.* The grantee agrees to comply with any affirmative action plan or steps for equal employment opportunity required by 14 CFR Part 152, Subpart E, as part of the affirmative action program, and by any Federal, State, or local agency or court, including those resulting from a conciliation agreement, a consent decree, court order, or similar mechanism. The grantee agrees that State or local affirmative action plans will be used in lieu of any affirmative action plan or steps required by 14 CFR Part 152, Subpart E, only when they fully meet the standards set forth in 14 CFR 152.409. The grantee agrees to obtain a similar assurance from its covered organizations, and to cause them to require a similar assurance of their covered suborganizations, as required by 14 CFR Part 152, Subpart E.

§ 152.407 Affirmative action plan: general.

(a) Except as provided in paragraph (b) of this section, each of the following shall have an affirmative action plan that meets the requirements of § 152.409 and is kept on file for review by the FAA Office of Civil Rights:

(1) Each sponsor who employs 50 or more employees in its aviation workforce.

(2) Each planning Agency which employs 50 or more employees in its agency for aviation purposes.

(3) Each state political division, administering a grant under the AADA to develop standards for airport development at general aviation airports, which employs 50 or more employees in its aviation workforce.

(b) A grantee is in compliance with paragraph (a) of this section, if it is subject to, and keeps on file for review by the FAA Office of Civil Rights, one of the following:

(1) An affirmative action plan acceptable to another Federal agency.

(2) An affirmative action plan for a State or local agency that the covered organization certifies meets the standards in § 152.409.

(3) A conciliation agreement, consent decree, or court order which provides short and long-range goals for equal employment opportunity similar to those which would be established in an affirmative action plan meeting the standards in § 152.409.

(c) Each sponsor shall require each aviation related activity (other than construction contractors) which employs 50 or more employees on the airport to prepare, and keep on file for review by the FAA Office of Civil Rights, an affirmative action plan developed in accordance with the standards in § 152.409, unless the activity is subject to one of the mechanisms described in paragraphs (b) (1) through (3) of this section.

(d) Each sponsor shall require each aviation related activity described in paragraph (c) of this section to similarly require each of its covered suborganizations (other than construction contractors) which employs 50 or more employees on the airport to prepare, and to keep on file for review by the FAA Office of Civil Rights, an affirmative action plan developed in accordance with the standards in § 152.409, unless the suborganization is subject to one of the mechanisms described in paragraphs (b) (1) through (3) of this section.

§ 152.409 Affirmative action plan standards.

(a) Each affirmative action plan required by this subpart shall be developed in accordance with the following:

(1) An analysis of the employer's aviation workforce which groups employees into the following job categories:

(i) Officials and managers.
(ii) Professionals.
(iii) Technicians.
(iv) Sales workers.
(v) Office and clerical workers.
(vi) Craft workers (skilled).
(vii) Operatives (semi-skilled).
(viii) Laborers (unskilled).
(ix) Service workers.

(2) A comparison separately made of the percent of minorities and women in the employer's present aviation workforce (in each of the job categories listed in paragraph (a)(1) of this section) with the percent of minorities and women in each of those categories in the total workforce located in the SMSA, or, in the absence of an SMSA, in the counties contiguous to the employer's location or the location where the work is to be performed and in the areas from which persons may reasonably be expected to commute. This data on the total workforce of the applicable area will be supplied to grantees by the FAA. Grantees shall make this data available to the other organizations covered by this subpart. The comparison for minorities must be made only when minorities constitute at least 2 percent of the total workforce in the geographical area used for the comparison.

(3) A comparison, for the aviation workforce, of the total number of applicants and persons hired with the total number of minority and female applicants, and minorities and females hired, for the past year. Where this data is unavailable, the employer shall establish and maintain a system to provide the data, and shall make the

comparison 120 days after establishing the data system.

(4) Where the percentage of minorities and women in the employer's aviation workforce, in each job category, is less than the minority and female percentage in any job category in the workforce of the geographical area used, an analysis, based on the comparison required by paragraph (a)(3) of this section, determining whether any of the following exists:

(i) Insufficient flow of minority and female applicants.

(ii) Disparate rejection of minority and female applicants. The FAA generally considers disparate rejection to exist whenever a selection rate for any race, sex, or ethnic group is less than 80 percent of the rate for the race, sex, or ethnic group with the highest selection rate.

(b) Each affirmative action plan required by this part shall be implemented through an action-oriented program with goals and timetables designed to eliminate obstacles to equal opportunity for women and minorities in recruitment and hiring, which shall include, but not be limited to:

(1) Where disparate rejection of minority and female applicants is indicated by the analysis required by paragraph (a)(4) of this section, validation of those portions of the testing or selection procedures which cause the disparity in accordance with the "Uniform Guidelines on Employee Selection" (43 FR 38290; August 25, 1978), within 120 days of the analysis.

(2) Where testing or selection procedures cannot be validated, discontinuation of their use.

(3) Where an insufficient flow of minority and female applicants (less than the percentage available) is indicated by the analysis required by paragraph (a)(4) of this section, good faith efforts to increase the flow of minority and female applicants through the following steps, as appropriate:

(i) Development or reaffirmation of an equal opportunity policy and dissemination of that policy internally and externally.

(ii) Contact with minority and women's organizations, schools with predominant minority or female enrollments, and other recruitment sources for minorities and women.

(iii) Encouragement of State and local employment agencies, unions, and other recruiting sources to ensure that minorities and women have ample information on, and opportunity to apply for, vacancies and to participate in examinations.

(iv) Participation in special employment programs such as Co-operative Education Programs with predominantly minority and women's colleges, "After School" or Work Study programs, and Summer Employment.

(v) Participation in "Job Fairs."

(vi) Participation of minority and female employees in Career Days, Youth Motivation Programs, and counseling and related activities in the community.

(vii) Encouragement of minority and female employees to refer applicants.

(viii) Motivation, training, and employment programs for minority and female hard-core unemployed.

§ 152.411 Affirmative action steps.

(a) Each grantee which is not described in § 152.407(a) and is not subject to an affirmative action plan, regulatory goals and timetables, or other mechanism providing for short and long-range goals for equal employment opportunity, shall make good faith efforts to recruit and hire minorities and women for its aviation workforce as vacancies occur, by taking the affirmative action steps in § 152.409(b)(3), as follows:

(1) If it has 15 or more employees in its aviation workforce or employed for aviation purposes, by taking the affirmative action steps in § 152.409(b)(3), as appropriate; or

(2) If it has less than 15 employees in its aviation workforce or employed for aviation purposes, by taking the affirmative action steps in § 152.409(b)(3) (i) and (ii), as appropriate.

(b) Except as provided in paragraph (c) of this section, each sponsor shall require each of its aviation related activities on its airport, that is not subject to an affirmative action plan, regulatory goals and timetables, or other mechanism which provides short and long-range goals for equal employment opportunity, to take affirmative action steps and cause them to similarly require affirmative action steps of their covered suborganizations, as follows:

(1) Each aviation related activity or covered suborganization with less than 50 but more than 14 employees, must take the affirmative action steps enumerated in § 152.409(b)(3), as appropriate.

(2) Each aviation related activity or covered suborganization with less than 15 employees, must take the affirmative action steps enumerated in § 152.409(b)(3) (i) and (ii), as appropriate.

(c) Each sponsor shall require each construction contractor, that has a contract of $10,000 or more on its airport and that is not subject to an affirmative action plan, regulatory goals or timetables, or other mechanism which provides short and long-range goals for equal employment opportunity, to take the following affirmative action steps:

(1) The contractor must establish and maintain a current list of minority and female recruitment sources; provide written notification to these recruitment sources and to community organizations when employment opportunities are available; and maintain a record of each organization's response.

(2) The contractor must maintain a current file of the names, addresses, and telephone numbers of each minority and female walk-in applicant and each referral from a union, a recruitment source, or community organization and the action taken with respect to each individual. Where an individual is sent to the union hiring hall for referral, but not referred back to the contractor, or, if referred, not employed by the contractor, this shall be documented. The documentation shall include an explanation of, and information on, any additional actions that the contractor may have taken.

(3) The contractor must disseminate its equal employment opportunity policy internally—

(i) By providing notice of the policy to unions and training programs;

(ii) By including it in policy manuals and collective bargaining agreements;

(iii) By publicizing it in the company newspaper, report, or other publication; and

(iv) By specific review of the policy with all management personnel and with all employees at least once a year.

(4) The contractor must disseminate the contractors's equal employment opportunity policy externally—

(i) By stating it in each employment advertisement in the news media, including news media with high minority and female readership; and

(ii) By providing written notification to, or participating in discussions with, other contractors and subcontractors with whom the contractor does business.

(5) The contractor must direct its recruitment efforts to minority and female organizations, to schools with minority and female students, and to organizations which recruit and train minorities and women, in the contractor's recruitment area.

(6) The contractor must encourage present minority and female employees to recruit other minorities and women.

(7) The contractor must, where possible, provide after school, summer, and vacation employment to minority and female youth.

(d) Each sponsor shall require each of its prime construction contractors on its airport, with a contract of $10,000 or

more, to require each of the contractor's subcontractors on the airport to comply with the affirmative action steps in paragraph (c) of this section, with which it does not already comply, unless the subcontractor is subject to an affirmative action plan, regulatory goals or timetables, or other mechanism which provides short and long-range goals for equal employment opportunity, or the subcontract is less than $10,000.

§ 152.413 Notice requirement.

Each grantee shall give adequate notice to employees and applicants for employment, through posters provided by the Secretary, that the FAA is committed to the requirements of section 30 of the AADA, to ensure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds authorized under this part.

§ 152.415 Records and reports.

(a) Each grantee shall keep on file for a period of three years or for the period during which the Federal financial assistance is made available, whichever is longer, reports (other than those transmitted to the FAA), records, and affirmative action plans, if applicable, that will enable the FAA Office of Civil Rights to ascertain if there has been and is compliance with this subpart.

(b) Each sponsor shall require its covered organizations to keep on file, for the period set forth in paragraph (a) of this section, reports (other than those submitted to the FAA), records, and affirmative action plans, if applicable, that will enable the FAA Office of Civil Rights to ascertain if there has been and is compliance with this subpart, and shall cause them to require their covered suborganizations to keep similar records as applicable.

(c) Each grantee, employing 15 or more person, shall annually submit to the FAA a compliance report on a form provided by the FAA and a statistical report on a Form EEO–1 of the Equal Employment Opportunity Commission (EEOC) or any superseding EEOC form. If a grantee already is submitting a Form EEO–1 to another agency, the grantee may submit a copy of that form to the FAA as its statistical report. The information provided shall include goals and timetables, if established in compliance with the requirements of § 152.409 or with the requirements of another Federal agency or a State or local agency.

(d) Each sponsor shall—

(1) Require each of its aviation-related activities (except construction contractors), employing 15 or more persons, to annually submit to the sponsor the reports required by paragraph (c) of this section, on the same basis as stated in paragraph (c), and shall cause each aviation-related activitiy to require its covered suborganizations, with 15 or more employees, to annually submit the reports required by parargraph (c) of this section through the prime organization to the sponsor, for transmittal by the sponsor to the FAA.

(2) Annually collect from its aviation related activities employing less than 15 employees, and transmit to the FAA an aggregate employment report, that includes the employment of sponsors with less than 15 employees, on an EEO–1 or any superseding EEOC form.

(e) Each sponsor shall require each of its construction contractors on its airport, with a contract of $10,000 or more, which is not subject to E.O. 11246 and the regulations of the Department of Labor (DOL), to submit to the sponsor, at the conclusion of the project, a compliance report on a form provided by the FAA and a statistical report on a DOL Form 257 or any superseding DOL form. For projects exceeding six months, the sponsor shall require a midway compliance report. The sponsor shall submit these reports to the FAA.

(f) Each sponsor shall cause each of its construction contractors on its airport to require each of the contractor's subcontractors, with a subcontract of $10,000 or more, which are not subject to E.O. 11246 and the regulations of the DOL, to submit the reports required by paragraph (e) of this section to the prime contractor for submission to the sponsor. The sponsor shall transmit these reports to the FAA.

(g) Each organization required to prepare an affirmative action plan for the FAA under this subpart shall update it annually and as changed circumstances require. Each organization that has prepared a plan in compliance with the requirements of another Federal agency or a State or local agency, shall update it in accordance with the requirements of that agency.

§ 152.417 Monitoring employment.

(a) Each grantee shall allow the FAA Office of Civil Rights to monitor its equal employment opportunity compliance with this subpart through on-site reviews and desk audits. Reviews or audits will include the records submitted under § 152.415.

(b) As it deems necessary, the FAA Office of Civil Rights will conduct on-site or desk audits of covered aviation related activities on airports.

§ 152.419 Minority business.

Each person subject to this subpart is required to comply with the Minority Business Enterprise Regulations of the Department.

§ 152.421 Public accommodations, services, and benefits.

Requirements relating to the provision of public accommodations, services, and other benefits to beneficiaries under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and Part 21 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 21) implementing Title VI are made applicable, where appropriate, to nondiscrimination and affirmative action on the basis of sex or creed, and shall be complied with by each applicant for assistance and each grantee.

§ 152.423 Investigation and enforcement.

(a) *Complaints.* Any person who believes that he or she has been subjected to discrimination prohibited by this subpart may personally, or through a representative, file a complaint with the Director of the Departmental Office of Civil Rights. A complaint must be in writing and filed not later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Director.

(b) *Investigations and informal resolutions.* The Departmental Office of Civil Rights will make a prompt investigation whenever a complaint, compliance review, report, or any other information indicates a possible failure to comply with this subpart. The procedures in 49 CFR Part 21, augmented as appropriate by the investigative procedures of Part 13 of this chapter, will be followed, except that—

(1) Compliance with a regulation of the Department applicable to minority business enterprise will be investigated and enforced through the procedures contained in that regulation; and

(2) Except as provided in paragraph (c) of this section, allegations of noncompliance with regulations governing equal employment opportunity of another Federal agency or a State or local agency, will be referred, for investigation and enforcement, to the Federal agency or, in the discretion of the Departmental Office of Civil Rights, to the State or local agency.

(c) When the FAA (under section 30 of the AADA) and another Federal agency, a referral agency recognized by the Equal Employment Opportunity

Commission, or a court have concurrent jurisdiction over a matter—

(1) If the other agency or court makes a finding on the record that noncompliance or discrimination has occurred, the FAA will accept the finding, and determine what sanctions or remedies are appropriate under section 30 as a result of the finding, after permitting the party against whom the finding was made to be heard on the determination of the sanctions or remedies; or

(2) If it appears that delay, through referral to another agency, will result in the continued expenditure of Federal funds under this part without compliance with this subpart, the Secretary may—

(i) Investigate the matter;

(ii) Make a determination as to compliance with section 30; and

(iii) Impose appropriate sanctions and remedies.

(d) Nothing in this section shall preclude the Director of the Departmental Office of Civil Rights from initiating an investigation when it appears that the investigation of the complaint may reveal a pattern or practice of discrimination or noncompliance with the requirements of this subpart in the employment practices of a grantee or other covered organization.

§ 152.425 Effect of subpart.

Nothing contained in this subpart diminishes or supersedes the obligations imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Executive Order 11246 (42 U.S.C. 2000e (note)), or any other Federal law or Executive Order relating to civil rights.

4. Compliance with §§ 152.407, 152.411(c) (1) and (2), 152.415, and 152.417(b) is not required until 30 days after a notice of approval of the requirements of those paragraphs by the Office of Management and Budget is published in the **Federal Register.**

Note.—The FAA has determined that this document involves a proposed regulation which is significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT:".

(Sec. 30 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1730); § 1.47(f)(1) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(1)))

Issued in Washington, D.C., on February 7, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-4583 Filed 2-13-80; 8:45 am]

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February 14, 1980

Part IV

Department of Energy

Office of Conservation and Solar Energy

Industrial Energy Conservation Program; Final Rules and Change of Dates

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 445

[Docket No. CAS-RM-79-301]

Industrial Energy Conservation Program Including Voluntary Recovered Materials Utilization Targets

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is issuing this final rule to implement the Industrial Energy Conservation Program (program) required by Part E of Title III of the Energy Policy and Conservation Act (EPCA), as amended by the National Energy Conservation Policy Act (NECPA). The proposed rule was published on June 8, 1979 (44 FR 33344) and five public hearings were held in July 1979.

These regulations codify all aspects of the program, including the criteria and procedures for the identification of certain manufacturing corporations for reporting purposes, the various reporting requirements of the program, and the criteria and procedures for exemptions from reporting directly to DOE. DOE is including in the final rule the final industrial energy efficiency improvement targets which were established by the Federal Energy Administration as required by the EPCA. These regulations are intended to allow DOE to carry out more effectively its responsibilities for the program.

DOE also is establishing, as part of the comprehensive regulations, voluntary targets for the increased utilization of recovered materials (targets) for four industries, as required by the NECPA. The industries are metals and metal products, paper and allied products, textile mill products, and rubber. The statement of basis and justification for the targets is included in this notice as required by the NECPA.

Pursuant to the requirements of 10 CFR Part 445, DOE is issuing concurrently with these final regulations a **Federal Register** notice changing various deadlines for the identification and reporting aspects of the program. These changes will affect the operation of the program in 1980 only and are made to allow sufficient time to comply with these newly issued regulations.

EFFECTIVE DATE: March 17, 1980.

FOR FURTHER INFORMATION CONTACT:

Lewis S. Newman, Office of Industrial Programs, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, D.C. 20585 (202) 252-2384

Pamela M. Pelcovits, Office of General Counsel, U.S. Department of Energy, 20 Massachusetts Ave. NW., Washington, D.C. 20585 (202) 376-9469

SUPPLEMENTARY INFORMATION:

I. Background
- A. Introduction
- B. Proposed and Final Target Support Documents
- C. Proposed Reporting Forms

II. Comments Received and Revisions Made (§§ 445.1 through 445.43)

III. Statement of the Basis and Justification for the Recovered Materials Utilization Targets
- A. Methodology
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I. Background

A. Introduction

On November 9, 1978, President Carter signed the National Energy Conservation Policy Act (Pub. L. 95-619) (NECPA). Section 441 of the NECPA redesignated sections 371-376 of the Energy Policy and Conservation Act (42 U.S.C. 6341-6346) (EPCA) as part E of Title III. Sections 461 and 601 of the NECPA further amended sections 371-376 of the EPCA, pursuant to which the Federal Energy Administration (FEA) and, pursuant to the Department of Energy Organization Act (Pub. L. 95-91) (DOE Act), its successor, the Department of Energy (DOE), had implemented the Industrial Energy Conservation Program (program).

This final rule sets forth the regulations for the program under the EPCA as amended by the NECPA. These regulations codify all aspects of the program by establishing Part 445 of Chapter II of Title 10 of the Code of Federal Regulations. The regulations were developed by the Office of Industrial Programs, under the Assistant Secretary for Conservation and Solar Energy, which has the responsibility for management of the program. A major purpose of this rule is to provide the necessary framework for the collection and reporting to DOE of data on industrial energy efficiency improvement and recovered materials utilization. DOE will use this data to prepare and submit reports to the President and the Congress on the progress being made by industry in improving industrial energy efficiency and increasing recovered materials utilization. DOE published the proposed program rule on June 8, 1979 (44 FR 33344). In the preamble to the proposed rule, DOE described the relevant provisions of the EPCA and the NECPA and its proposed program to implement them. Reference should be made to the Background section of the proposed rule for a description of the program under EPCA and the NECPA amendments to the program. DOE solicited comments on its proposal and held public hearings in Washington, D.C. as follows: Recovered Materials Targets for Textile Mill Products, July 23, 1979; Recovered Materials Targets for Metals and Metal Products, July 24, 1979; Recovered Materials Targets for Paper and Allied Products, July 25, 1979; Recovered Materials Targets for Rubber, July 26, 1979; All Other Aspects of the Rule, July 31, 1979.

This final rule reflects DOE's consideration of all substantive public comments received in response to its solicitation. All comments received by DOE were incorporated into the record of the administrative proceedings on this rule.

B. Proposed and Final Target Support Documents

Concurrently with the publication in the **Federal Register** of the proposed rule, DOE made available to the public copies of the detailed support documents upon which each of the proposed recovered materials utilization targets was based, and sought public comment on such documents as the proposed basis and justification for the targets. The documents set forth, in detail, the methodology, assumptions, data and analyses underlying each of the proposed targets. In addition, they included characterizations of the industries and indexes of the data sources which DOE believed to be the best available information.

Based on additional information received by DOE during the public comment period the support documents have been revised. Limited numbers of the following final target support documents are available on request from DOE: Industrial Recovered Materials Utilization Targets for the Textile Mill Products Industry; Industrial Recovered Materials Utilization Targets for the Paper and Allied Products Industry; Industrial Recovered Materials Utilization Targets for the Rubber Industry; Industrial Recovered Materials Utilization Targets for the Metals and Metal Products Industry.

These documents contain detailed material supplementary to the statement of basis and justification for the targets

which is published herein as required by law. Taken together with the statement of basis and justification in the notice, they provide the complete basis and justification for the targets. To request a copy contact: Dee Pollard, Office of Industrial Programs, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, D.C. 20585 (202) 252–2384.

C. Proposed Reporting Forms

On July 17, 1979, DOE published in the **Federal Register** (44 FR 41652), for comment, three proposed reporting forms for use in complying with the reporting requirements of Subpart C of this rule. Public hearings on the proposed forms were held on August 27, 1979, in Washington, D.C., August 29, 1979, in Chicago, and August 31, 1979, in San Francisco. The period for written comments remained open until September 17, 1979.

The proposed forms were intended for the collection of data, at the plant, corporate, and sponsor levels, on industrial energy efficiency and utilization of energy-saving recovered materials.

Final reporting forms for use in the program will be published in the **Federal Register** after their review and approval by DOE's Energy Information Administration and the Office of Management and Budget.

II. Comments Received and Revisions Made (§§445.1 Through 445.43)

DOE received many written and oral comments on §§ 445.1 through 445.43 of the proposed rule. To facilitate an orderly discussion of these comments, and DOE's specific responses to them, each will be discussed in the order that the sections to which they relate appear in the rule.

Section 445.2—Definitions. DOE agreed with a number of comments suggesting that a definition of "waste" be included, since the term is used in the computation of energy consumption for identification purposes (waste is to be excluded from the the computation). DOE had defined "solid waste" for purposes of recovered materials reporting, and has now determined that the same definition applies to the computation of energy consumption for the identification purposes. DOE has therefore defined "waste" as "solid waste."

A comment was received, with which DOE agrees, that the phrase "energy source" is a better descriptive term than "energy type," since electricity and purchased steam are included in its definition.

A comment was received requesting that the definition for feedstocks be clarified. DOE has reviewed the proposed definition and believes that it is adequate for the determination of energy to be excluded from the computation of energy consumption for identification purposes.

A comment was received suggesting a different, "simpler" definition for a "plant." DOE does not agree that the change recommended would simplify the definition; it therefore remains unchanged in the final rule.

A comment was received suggesting the definition of "production" be changed to specify "net sales in constant dollars" as a measure of a corporation's activity. DOE considers the present definition sufficiently broad to cover all reasonable measures of activities, and has determined that there is no need to specify any one factor as a required determinant of production.

A definition of "plant report" has been added to clarify the methods by which plant reporting can be accomplished.

Section 445.4—Handling of Information Submitted Under the Program. A substantial number of comments expressed concern over whether the confidentiality of plant information was adequately protected under the present language of this section. Since this section adopts the language of the NECPA, which specifically states that information from plant forms made available to DOE for verification purposes shall not be released to the public, DOE sees no need for further assurances.

A comment was received recommending that at least 30 days, rather than 7 days, be allowed for an organization to respond to a determination by DOE to disclose information submitted under a confidentiality claim. Such latitude, while perhaps helpful to reporting organizations, would not be consistent with the Government's desire for expeditious responses to requests received from the public for information. Therefore, the 7 day notice, which is consistent with DOE's Freedom of Information Act regulations, is not changed in the final rule.

A comment was received recommending that guidelines be provided for sponsors to request that certain information be treated as confidential if such a claim is made by the corporation to the sponsor. Although DOE feels the proposed instructions in the section apply to this situation, it has adjusted the language of subsections (c) and (e) to clarify the relationship.

Section 445.5—Major Energy-Consuming Industries. DOE anticipated receiving comments on its designation of all twenty 2-digit SIC industries as major energy-consuming, which would thereby expand the reporting requirements to all 20 industries. Many commenters addressed themselves to this determination; all but one of these were representatives of a single industry. The commenters put forth basically three arguments against expanding the present reporting program to include the additional ten 2-digit SIC industries. First, since no targets exist, nor are any contemplated for the second ten industries, reporting energy usage would merely be recording information with no basis for making determinations regarding progress. Second, the small numbers of identified corporations in most of the second ten industries are not truly representative of their overall 2-digit industries. Third, the present reporting program has not been proven to have had a positive significant effect on industrial energy conservation efforts; thus an expansion of this effort is not justified.

DOE feels that Congress' intent is clear from the revisions made in section 375(a) of the EPCA. By removing any reference to target industries from the first sentence of section 375(a), the reporting requirement was generalized to cover corporate progress in improving its energy efficiency. Moreover, the subject matter to be reported includes progress in increasing utilization of energy saving recovered materials in four specified industries, one of which falls within the second ten industries. In vies of this specific language, DOE believes that the Congress did not intend to limit reporting under section 375 of EPCA to the ten most energy-consumptive industries.

Addressing the second argument, while DOE may agree that the identified populations in the second ten industries cannot be construed as completely representative of the respective industries, many of the initial ten industry reporting populations also are not representative of their industries. Also, Congress has never specified representation as one of its guiding principles in this reporting program.

In regard to the third argument, Congress again has not questioned the effectiveness of its legislated reporting requirements. Indeed, in passing NECPA it obviously sought to expand these requirements.

For purposes of reporting on the use of recovered materials, SIC 3079 has been excluded, as discussed under Corporate Reporting below.

Section 445.12—Requirement for Corporations To File a Report on Energy Consumption. Several commenters suggested that, since an identification

was completed during 1979 (44 FR 28750, May 16, 1979), prior to the promulgation of the rule, those corporations identified should not have to refile for identification during 1980, when the rule becomes operational, if their status remains unchanged under the parameters of subpart B of the final rule. DOE agrees with this suggestion and, in the interests of reducing paper work and administrative burden, intends to so stipulate in the formal **Federal Register** publication of its 1980 identification requirements, which should occur in early January 1980.

Section 445.13—Computation of Energy Consumption. Over 50 percent of the commenters presented recommendations on various parts of this section. Some were accepted and resulted in alterations; others were either unacceptable for various reasons or were the result of misunderstanding or misinterpretation.

Many commenters objected to the inclusion of feedstocks in the energy consumption computation. Generally it is felt by those responding that hydrocarbon feedstocks are used as building blocks rather than consumed as fuels, that improvements in the efficiency of feedstock utilization usually involve very capital-intensive changes in the basic process design of a plant, and that feedstocks were not included in the generation of the efficiency targets and have not been included in the reporting program in the past. After considering these and other factors, and the fact that feedstocks are *excluded* from the computation of energy consumption for reporting purposes, DOE has determined that feedstocks should also be excluded for identification purposes.

Another area which generated many comments concerned the standard conversion factors provided. Many commenters attributed a mandate to these factors which DOE neither stated nor intended. In the proposed rule DOE stated that, whenever possible, corporations should compute their energy consumption using the *actual* conversion factors of the fuels they consumed. In the final rule DOE is providing the list of standard or average conversion factors for use by any corporation which does not know the actual Btu content of any of its fuels consumed and cannot reliably estimate the Btu content. Units for liquid fuels have been changed from barrels to gallons as suggested by some commenters. Additionally, it is apparent from many comments that § 445.13 was erroneously connected with the reporting aspects of the program even though it appears under subpart B—Identification of Corporations. DOE feels that a careful reading of § 445.11 should preclude this misunderstanding.

A comment was received addressing the conversion factors for petroleum coke and still gas. It was pointed out that neither of these energy sources exists in barrel form except by "definition" in fuel oil equivalent terms. DOE therefore has revised the conversion factor table to reflect the actual units in which these energy sources are available—tons for petroleum coke and cubic feet for still gas.

Many comments were received objecting to the use of 3,412 Btu/Kwh rather than 10,000 Btu/Kwh as the conversion factor for purchased electricity. Again, many of these comments related to the reporting phase of the program rather than the identification process. As explained above, § 445.13 deals solely with corporate identification, while the reporting of energy consumption and efficiency was specifically addressed in the proposed reporting forms published in the July 17, 1979, **Federal Register.** Notwithstanding this misinterpretation, DOE recognizes that reasonable arguments can be advanced to support either conversion factor for electricity. However, 3,412 Btu/Kwh has been utilized for corporate identifications since the program's inception, and DOE has found no evidence to justify making such a change at this stage of the program. Eight of the ten energy efficiency improvement targets were established using 3,412 Btu/Kwh, and the reporting program for those eight industries uses 3,412. Should major program revisions be initiated in the future, the subject of the conversion factor for electricity will be again be addressed in depth.

Individual comments were received recommending that various consumption categories be reversed in determining the computation of energy consumption, i.e., exclude rather than include or vice versa. These categories included inplant transportation, office services, research services, and transport of intermediate products. Since no evidence was introduced which produced a sufficient justification for modifying its proposed position, DOE determined that these categories should remain unchanged. DOE did revise the language concerning the inclusion of energy for transportation between mining operations and manufacturing facilities to clarify that only energy for such transportation on the manufacturer's property should be included.

A comment was received suggesting that energy use due to compliance with EPA and OSHA regulations should be excluded from the consumption computation. Since allowance is made for such factors in the efficiency calculations of the reporting phase, DOE determined not to make this change.

A comment was received recommending that where the amount of energy consumed in a computation category was "insignificant" compared to overall energy consumption, DOE should recognize the collection burden involved and should specifically allow corporations to exclude mimimal consumption categories from the consumption computation. DOE believes that most corporations will use common sense in their computation process, and not spend inordinate time with computations which will have no effect on the accuracy of the reported values.

Finally, two comments were received suggesting that waste used as fuel be included in the computation of a corporation's energy consumption. Because of the difficulties inherent in determining the heating value of many types of wastes, and because greater use of wastes as fuel results in less use of scarce fossil fuels, DOE has determined that wastes used as fuel should not be included in the energy consumption reported for identification purposes.

Section 445.14—Report on Energy Consumption. Many of the commenters objected to the requirement, at various places in the proposed rule, that chief executive officer (CEO) certification authority be delegated only to another corporate "officer." Many comments pointed out that a CEO may logically delegate certification authority for energy reports to individuals other than corporate officers while maintaining a viable accountability trail. In addition, the language in both EPCA and NECPA states that the CEO or "individual" designated by such officer shall report to DOE. Therefore, DOE has revised the language in the rule to indicate that a CEO's delegation of authority to certify is not limited to officers.

Section 445.15—Identification of Corporations by DOE. A comment was received objecting to DOE's publication of a list of identified corporations in the **Federal Register.** The possible misrepresentation of this listing by the news media was presented as the primary reason for using direct mail contact as a substitute method. While DOE cannot prevent misuse of its published information, the **Federal Register** serves as a vital conduit for notification by the Federal Government to the public. DOE therefore intends to

continue to utilize the **Federal Register** as a useful, and cost-effective, method of communication with the industries concerned and the public.

Section 445.21—Plant Reporting Requirements. Many commenters felt that the plant reporting provisions of the proposed rule would be too burdensome for the corporations and their plants. Particular objection was made to the proposed requirements for cross-referencing identical data items between the DOE-provided form and such other plant reporting form as the corporation might elect to use in place of the DOE form.

In response to this objection, DOE has decided that, if a corporation elects to use its own plant reporting form in lieu of the DOE form, it will not be required to file a document which cross-references items on its form to identical data items on the DOE form. DOE recognizes that the information needed to comply with the corporate reporting requirements is, necessarily, obtained from the plants but may be collected by the corporations at various intervals, from various sources, and by various means. The plant reporting requirement is not intended to displace existing information systems where such systems provide adequate information. However, a plant reporting form will be expected to provide equivalent information to that provided by the DOE form, and is subject to detailed review as part of DOE's verification procedures. Hence, while cross-referencing must be provided by the corporation if requested as part of a DOE verification, it need not become a part of the general reporting burden. A definition of "plant report" has been added to § 445.2 to reflect this flexibility in plant reporting.

Further, DOE has reviewed the suggestions that certain smaller plants be exempted from the reporting requirement. DOE believes the less detailed plant reporting data requirements, the permissibility of reporting on an alternative to the DOE-provided form, and the elimination of the cross-referencing requirement for alternative forms will sufficiently ameliorate the burden of plant reporting and render such an exemption unnecessary.

Finally, the proposed DOE access to plant reports caused many commenters to conclude that DOE would collect and retain certain plant reports. It is not DOE's intention either to collect or retain plant reports, but to conduct any reviews of reports at the corporate headquarters and/or the plant sites.

Section 445.22—Corporate Reporting Requirements. Statements from several industry groups requested that the textile mill products industry be exempt from reporting on use of recovered materials because: (1) No one-trillion Btu-per-year users exist in those subdivisions having an increasing, non-zero target; (2) targets are zero for those sectors with corporations using over a trillion Btu per year; and (3) targets are currently being achieved. It was stated that reporting toward zero targets is an industry burden which serves no useful purpose. After considering such comments, DOE believes that the statutory requirement relating to reporting on the use of recovered materials does not permit such exemptions. In addition, while such industry sectors with zero targets for the use of recovered materials are not presently known to have any potential for the utilization of recovered materials, it is conceivable that currently unforeseen technology could become available between now and 1987. If this were to occur, the reporting requirements would provide information on actions which could be taken to complement the technical achievement. This is viewed as consistent with the intent of the legislation. All identified corporations in SIC 22 are therefore required to report annually on recovered materials utilization.

After reviewing the initial reports from identified corporations on their use of recovered materials, DOE has found that a significant number of identified corporations in SIC 30 do not engage in manufacturing operations involving rubber or rubber products. DOE has therefore decided to require only those corporations which are identified in SIC 30 and have manufacturing operations in one or more of the SIC codes other than SIC 3079 (Miscellaneous Plastics Products) to report on their use of recovered materials.

Similar to the determination made with respect to the plant reporting form (§ 445.21), DOE has decided to eliminate the cross-referencing requirement between a corporation's alternative form and the DOE form for those corporations reporting indirectly through a sponsor. This change is reflected in revisions to this section and to § 445.34 of the rule. However, identified corporations reporting directly to DOE must use the DOE form.

Section 445.23—Sponsor Reporting Requirements. A comment was received proposing that a corporation should have the option of reporting energy conservation/use data and recovered materials use data to different sponsors and/or directly to DOE. Not only would such flexibility require an expanded internal system within DOE to track these "partial" reports, but corporations could be forced to generate multiple reports by a sponsor's refusal to handle certain portions of the information. DOE has therefore made a determination to require reporting of recovered materials data and energy efficiency data in the same report, whether direct or through a sponsor.

Some comments were received objecting to the mandatory separate aggregation of information (in sponsor reports) submitted by non-identified corporations, i.e., separate from the aggregated information reported by identified corporations. The commenters believe that this requirement would be contrary to one of the key elements of the Industrial Energy Conservation Program, i.e., encouraging the voluntary participation of the non-identified corporations, which comprise the majority of participants in many industry reporting programs. DOE agrees that separate aggregation of energy data might result in disclosure problems, thus causing these voluntary reporters not to participate in the program. DOE has therefore determined that, since it has the capability to develop any separation through its verification procedures, all corporate data which meet reporting requirements may be aggregated in the sponsored reports. This determination should not be construed as discouraging separate aggregation which does provide additional helpful information.

Section 445.25—Reporting Date and Address; and Section 445.36—Filing Deadline and Address. A number of comments were received suggesting that misconceptions in the Congress concerning industry's progress in energy conservation have been due largely to the fact that data on industrial energy efficiency improvement is not published in a timely manner. The commenters feel that the proposed July 15 deadline for receipt of reports by DOE, more than six months after the end of the reporting period, is an unnecessary delay. They suggested that the procedures for corporate identification and requests for exemption from direct reporting be combined in the initial January 1–February 28 time period. By effecting this compression of procedures, and halving the period between final exemption and data submission, it was pointed out that the data submission deadline could be moved back to May 15. In evaluating these suggestions, DOE took into account that these annual identification and exemption procedures will impact only on those corporations initially entering the mandatory reporting universe and those

corporations in the universe with a status change, and determined that this period compression would not constitute an undue administrative burden on either the reporting corporations or DOE. However, it was also determined that the proposed 30 days, rather than the suggested 14 days, is required between the final exemptions and the data submission deadline. Therefore DOE, in the rule, has changed the reporting date for corporations and sponsors from July 15 to June 1.

A comment was received recommending that DOE report on industry's progress by March 30 rather than 1½ to 3 months following the July 15 industry report deadline. This comment ignored the basic premises of the proposed program rule and was determined to be unsupportable.

A few comments were received recommending that first-time participants in the reporting program be given until July 15 to both identify themselves and report. However, since DOE is mandated by EPCA to allow corporations identified under this program to be exempted from direct reporting, and to make exemption proposals available for public comment, DOE does not have authority to require a corporation to report at the time it identifies itself. Therefore, DOE has determined that these recommendations could not be implemented in the final rule.

Section 445.26—Data Retention. Several comments were received suggesting that the word "forms" would be more appropriately used in this section of the rule rather than "data" and "reports." Since the language of NECPA specified that plant "Forms" will be retained by the corporation, the language of this section has been changed to reflect that intent. For purposes of verification, DOE requires that all other data used by a corporation or sponsor in preparing reports under §§ 445.22 or 445.23 be retained also.

DOE has deleted the requirement that sponsors provide to DOE, copies of exempt corporation's reports upon request. The exempt corporations must provide their reports to DOE at the corporation's headquarters upon request by DOE.

Section 445.31—Scope. Some comments revealed confusion about the annual nature of the exemption process. To clarify this provision, § 445.31 was revised by adding the following sentence: These exemptions are effective for one year and renewable annually.

Section 445.34—Request To Be an Exempt Corporation. A comment was received suggesting that §§ 445.32–35 place unreasonable and unnecessary requirements upon sponsor programs and should be simplified. That comment also points out part of a statement included in the preamble of the proposed rule taken from the NECPA Conference Report which stated: "Finally, the conferees agreed not to change the language of the voluntary reporting exemption." DOE notes that the Conference Report also included the following statement: "However, it was agreed that the Secretary had not sufficiently defined 'adequate voluntary reporting program' within the guidelines provided in section 376(g), and the Secretary should set more explicit criteria for the determination of whether a voluntary program is adequate." DOE feels that its efforts in §§ 445.32–35 are important in satisfying the requirement for more explicit criteria and do not require any simplification. As indicated above, DOE has decided to eliminate the requirement for cross-referencing between a corporation's alternative form and the DOE form for exempt corporations. This change is reflected in revisions which have been made in this section, as well as in § 445.22 of the rule.

Section 445.35—Request To Be a Sponsor With an Adquate Reporting Program. A few comments were received recommending that the requirement for annual recertification by sponsors in § 445.35(c) imposes an unnecessary burden on sponsors and should be eliminated. DOE's intent behind this requirement is to establish a communication line with sponsors equivalent to that existing for identified corporations. DOE does not feel that a simple annual certification statement places any significant burden on an organization capable of sponsoring an adequate voluntary reporting program, and thus has not changed the requirement for recertification.

A comment was received suggesting that the annual certification requirement be clarified in its application to the final rule's effective date. Since the criteria and request procedures have changed extensively since their initial publication in 1976, it is DOE's intent that all corporations desiring an exemption, and all prospective sponsors of adequate reporting programs, will file initial requests under §§ 445.34 and 445.35 by February 28, 1980. Therefore, the instructions in these sections remain as proposed and shall be followed explicitly. This determination will be handled administratively in a **Federal Register** notice in January 1980 reminding corporations of the requirement to file information on energy consumption.

Section 445.37—Determination of Exempt Corporations and Adequate Reporting Programs. A comment was received suggesting that DOE approve sponsors and exempt corporations without the necessity for public comment, in order to expedite the program and reduce attendant expenditures. Sections 376(g) (1) of EPCA states that "The (Secretary) shall exempt a corporation from the requirements of section 375(a) if such corporation is in an industry which has an adequate voluntary reporting program, as determined by the (Secretary) annually after notice and opportunity for interested persons to comment." DOE is legally required to provide such opportunity for public comment.

Section 445.42—Energy Efficiency Improvement Targets. DOE included in this section the ten energy efficiency improvement targets in order to set forth all parts of the program in the Code of Federal Regulations; however, it did not solicit comments since they had been finalized in June 1977.

A comment was received from an industry group recommending that the published adjusted targets (i.e., adjusted to account for the effects of such factors as weather and capacity utilization rate) be included in the rule in order to provide a better indication of results projected for energy conservation initiatives. While it is true that the suggested adjusted targets more closely conform to results achieved by conservation actions, DOE has found that few industries, industry sectors, or corporations can calculate the adjustments necessary to indicate progress which is consistent with these targets. Therefore, DOE has determined that the published targets provide a more accurate basis for comparison.

Verification Issue. Several comments were received requesting clarification about DOE's procedures for verifying data submitted under the reporting program. DOE did not and does not currently feel that such operational procedures are within the scope of this rulemaking, which primarily codifies procedures with which industry must conform in meeting legislative requirements. However, when DOE decides to initiate verification of reported information, it will notify the visitees of its intentions in advance of an intended verification visit. As an integral part of this notification, DOE will inform the corporation or organization what information should be available in order for the verification to be accomplished.

III. Statement of the Basis and Justification for the Recovered Materials Utilization Targets

A. Methodology

As part of this rulemaking, DOE is establishing, in § 445.44, recovered materials utilization targets (targets) for each of the following industries—metals and metal products, paper and allied products, textile mill products and rubber. DOE is required to set such targets pursuant to section 374A of the EPCA, as established by section 461 of the NECPA.

As discussed below, DOE has developed the targets in accordance with the following statutory requirements of section 374A: 1) To use the best available information; 2) to consider the technological and economic ability of each industry to increase its use of recovered materials by the target year; 3) to consider actions taken or which could be taken before the target year by the industries and by Federal, State or local governments to increase the use of recovered materials; and 4) to consult with the Environmental Protection Agency (EPA) and representatives of each of the industries for which targets are established.

As required by section 374A, the targets are established at levels which represent the maximum feasible increase in the use of recovered materials that the appropriate industry can achieve progressively by January 1, 1987. Numerically, each proposed target represents, for an appropriate "subdivision" of an industry, a level expressed as a percentage of recovered materials from prompt industrial and obsolete scrap, which can be used per unit of production (input or output) in manufacturing operations, by the target year of 1987. The corresponding percentage of recovered materials used per unit of production in the year selected as the reference year (1976, 1977 or 1978) for each industry is also provided. The difference between the two numbers indicates the maximum feasible increase, if any, in the utilization of recovered materials between the reference year and the target year.

The targets established by this notice are based on the best information available to DOE during the target development period. Published government and industry statistics for each of the industry subdivisions were used as the data sources for the reference year levels of production and recovered materials use. Government data sources for the targets included the Department of Commerce (all industries), the Environmental Protection Agency (rubber), the Department of Agriculture (textiles), the Department of the Interior (metals and the Department of Labor (metals). In addition, data compiled and published by industry associations were useful in establishing reference levels of recovered materials use.

The associations whose published statistical reports were used included the American Textile Manufacturers Association, the American Paper Institute, the Rubber Reclaimers Association, the Rubber Manufacturers Association, the American Iron and Steel Institute, the Aluminum Association, the Copper Development Association, and the Institute of Scrap Iron and Steel.

In addition to using published data from the sources listed above, DOE consulted with numerous Federal agencies, corporations and trade associations during the development of the proposed targets. The EPA and the Department of Commerce were consulted with regard to each of the industry targets. Additionally, the Department of Agriculture was consulted in developing the textiles industry targets and the Bureau of Mines in the Department of the Interior was consulted in developing the metals targets. Each of the industries affected by the targets was consulted in the development of the targets. Major trade associations and corporations in each industry were contacted early in the program and were invited to provide consultation.

In addition to consulting the manufacturing industries for which targets were being developed, DOE consulted the industries which collect and prepare the recovered materials used by the manufacturing industries. The National Association of Recycling Industries, Inc. and the Institute of Scrap Iron and Steel were the principal contacts in this regard. Various technical research and financial institutions were also consulted in the target development, as detailed in the target support documents.

Using the information obtained from the sources identified above, DOE determined the current levels of recovered materials use for each industry and projected the maximum feasible levels of use of 1987. The methodology used in establishing the 1987 target levels of recovered materials use was developed by DOE in November and December of 1978, to respond to the reqirements of section 461 of the NECPA. The statute requires that in establishing targets DOE consider (1) the technological and economic abilities of the industries to increase their recovered materials use, and (2) all actions taken or which could be taken by the industries and by Federal, State and local governments to impact on recovered materials use by 1987.

The common methodology was applied in all four industries to ensure that all targets would be based on common definitions and be stated in consistent terms. The methodology used by DOE is described in the section below.

Step 1. Selection of Appropriate Industry Subdivisions

a. Factors which were considered in determining portions of an industry to be studied further included:

(1) Historical and current use of recovered materials in the industry.

(2) Volume of sales of industry components.

(3) Energy consumption levels.

(4) Parts of the industry which historically and currently use recovered materials.

(5) Potential for use of recovered materials between now and 1987.

b. The industry was carefully studied to determine whether an SIC, process, product type (other than SIC) or some other subdivision of the industry was most appropriate.

Step 2. Selection of Sources of Recovered Materials

a. Factors which were considered in determining sources of recovered materials included:

(1) Quality of waste.

(2) Dispersion of waste.

(3) Quantity of waste.

(4) Potential new sources, and their quality, dispersion, quantity, etc.

(5) Changes in existing sources.

b. Sources of recovered materials included were:

(1) Wastes which contain materials which are listed in the Act, e.g., mine wastes.

(2) Wastes from outside the U.S.

(3) Any waste which may provide recovered materials which can replace virgin material used by any of the industry subdivisions defined in Step 1.

c. Sources of recovered materials excluded were:

(1) Waste materials generated and introduced back into the process within the same plant.

(2) Waste materials which are not among those listed in the Act, *e.g.*, wood waste.

(3) Situations where a clear case could be made that the potential sources will never be realistically used as recovered materials.

Step 3. Technological Feasibility Analysis

a. Current and historical use of recovered materials within each industry subdivision were quantified, by source.

b. Present technical limits on industry's ability to utilize recovered materials were determined.

c. Future technical limits on the ability to use recovered materials were determined.

d. Technologies which could, if implemented, modify (either up or down) the technical limits defined in Step 3b or 3c were identified.

e. For each of the techologies defined in Step 3d, the following criteria were applied:

(1) Can it be physically in place and operational between now and 1987?

(2) Is it realistic?

(3) Will it have a significant impact on the use of recovered materials?

(4) What could be the penetration of the technology if economic considerations—or any factor other than a technical limitation—were not considered.

f. Once the technical limits were determined for each industry subdivision, the following question was posed: Is it clear that available sources of recovered materials can provide that amount for each year between now and 1987?

(1) If *yes,* then a technical feasibility analysis of recovered materials was not undertaken.

(2) If *no,* then Steps 3b through 3e were repeated with respect to supply, to determine technical limits of the identified sources to provide recovered materials. If the sources could not technically provide sufficient recovered materials for an industry subdivision, then the sources defined the technical limitation.

Step 4. Economic Feasibility Analysis

a. From Step 3, it was established whether the ability of the industry subdivision to use recovered materials was the technically limiting factor.

(1) If *yes,* appropriate economic criteria were applied to the technologies defined in Step 3d, which can be introduced into the industry.

(2) If *no,* then economic criteria were applied to the technologies which define the technical limits on the sources' ability to provide recovered materials.

b. The primary economic criterion was some concept of return on investment (ROI). Acceptable ROI's are commonly determined by considering factors such as:

(1) Capital availability.

(2) Needs of capital for other investments to increase productivity, for pollution control, etc.

(3) Risk of the technology.

The economic analyses considered, among other things:

(1) Cost of virgin materials (which embodies energy cost).

(2) Cost of recovered materials.

(3) Cost of money.

(4) Relative operating and maintenance costs associated with implementation of the technology.

c. A brief assessment was made to ensure that implementation of a technology would not have an adverse impact on employment or contribute to inflation.

d. Viable, economic alternative uses for recovered materials were identified and addressed. The price of recovered materials is determined, in part, by competing interests (demand) for the materials. The price thus presumably reflects the potential for alternative uses, e.g., use directly as a fuel or use in products not manufactured by the industries encompassed by the Act.

e. The economic analyses necessarily substituted various simplifying assumptions for the very complex real-world situation. These assumptions are shown clearly in each of the target support documents.

f. Major actions which could realistically increase the use of recovered materials by a defined industry subdivision were identified.

It was assumed that no action will affect the target unless it impacts on a decision by the management of a corporation, or a decision by the manager (or potential manager) of a recovered material source. These managerial decisions are presumably always made on the basis of economics. Therefore, the result of the economic feasibility analysis was modified by any such identified actions.

g. The sensitivity of the targets to key variables was addressed.

h. Factors which could not be quantified, but which could affect the target, were addressed.

i. Upon completion of the economic analysis, a check was run to ensure that the total industry use of recovered materials, as reflected by the "economically feasible target," did not exceed the available supply. If it did, adjustments were made, and judgments regarding potential contributions of each recovered materials source to each industry subdivision were made.

j. Upon completion of Step 4, the economically feasible level of recovered materials use by each industry subdivision was defined and stated in terms of physical quantities of recovered materials per physical quantity of the industry subdivision's product.

The methodology described above provided the framework for analyzing each industry in detail. The actual analysis of each industry was tailored to that particular industry by placing emphasis on those aspects of the methodology determined, by the nature of the industry, to be most critical. For example, if it could be readily determined that the availability of scrap was not the most severe constraint to greater use of recovered materials by an industry, then the details of scrap use technology and economics were investigated without further analysis of supply constraints.

Public Comments. There was substantial comment during the public proceedings on the targets concerning the methodology for establishing the targets.

Beginning with the most fundamental of these concerns, DOE notes that a number of commenters believe that DOE's interpretations of Section 461 of the NECPA resulted in proposed targets which are far lower than intended by the legislation. However, DOE is required by Section 461 to establish targets which represent the maximum feasible increase in utilization of recovered materials and, in so doing, to consider the following:

(1) The technological and economic ability of each industry to increase its use of recovered materials by 1987; and

(2) All actions taken or which before 1987 could be taken by each industry or by Federal, State or local governments to increase the use of recovered materials.

In developing the proposed targets, DOE considered the economic abilities of the industries to use more recovered materials by determining the current circumstances of each industry and projecting changes in circumstances between the reference year and 1987. In estimating economic variables out to 1987 DOE reviewed historical trends and considered how they might be modified. The economic systems are not assumed to remain static through 1987. Rather, DOE made and supported many assumptions about the future of the subject industries and, in most cases, evaluated the sensitivity of recovered materials utilization to these assumptions.

Of the two considerations which DOE is required to account for in setting the targets (i.e., industry ability and posssible actions to enhance recovered materials utilization) the first is the more restrictive in the case of every industry studied. If one considers all actions which "could be taken," without

any constraints, DOE would agree that the target values could be substantially greater. However, when tempered by the considerations of technological and economic feasibility, DOE believes the targets established in § 445.44 of the rule represent the " maximum feasible" levels required by Section 461.

With respect to Federal, State or local government actions which could affect recovered materials utilization, DOE has, in addition to projecting future industry actions, sought to assess the impact of existing legislation and government actions, and to take into account their probable impact on the 1987 targets. The target levels have been established with full cognizance of and accounting for the recovered materials incentives provided and potentially provided by: (1) The Resource Conservation and Recovery Act of 1976, (2) the Railroad Revitalization and Reform Act of 1976, and (3) the Energy Tax Act of 1978.

Many commenters identified actions which, in their opinions, should be taken to enhance the future use of recovered materials. Suggested actions included, but were not limited to, the following:

Revision of freight rate structures
Tax code revisions
Limitations on scrap exports
Maintenance of a scrap futures market
Legislation of mandatory deposits on beverage containers
Imposition of landfill surcharges
Relaxation of pollution standards
Restriction on mining of Federal lands

These are not, of course, actions which can be taken unilaterally by DOE. DOE fully recognizes the importance of and is actively pursuing actions which would encourage the use of recovered materials through its industrial conservation program and in other appropriate areas. However, DOE cannot, at this stage, properly take all such actions into account in establishing the targets because there is presently no way to assess their impact on the 1987 targets with any reasonable level of accuracy.

In further support of this approach to target development, DOE believes the Congress intended the targets to be reasonably attainable, based on the best currently available information, since the NECPA provides the authority for DOE to modify any target downward if it determines that the target cannot reasonably be attained. Likewise, if DOE determines, on the basis of future circumstances and expectations, such as new legislation or government actions, that the target is too low, it may increase the target.

Some proponents of higher targets proposed that DOE go much further in taking account of the impact of future possible actions, and assume that all actions, whether by industry or government, needed to achieve the higher targets will be taken by whomever has the authority to take such actions. These proponents seek by this assumption to reconcile the two considerations for target-setting, i.e., economic and technological feasibility, and future actions. Their comments suggest that the higher targets would, in turn, provide a stimulus for such actions to be taken.

After careful consideration of these comments, DOE does not believe they suggest the most realistic or effective way of implementing the voluntary targets or that it serves any real purpose to hypothesize future actions irrespective of the probabilities that such actions will be pursued. Nor does DOE believe that the setting of higher, perhaps unrealistic, voluntary targets will enhance the prospects of such actions being carried out.

DOE's consideration of these comments has confirmed its view that its approach of keeping targets within the realm of economic and technological feasibility, based on generally accepted projections with respect to the technologies and economies of the industries affected, is an effective approach to achieving Congressional objectives.

Another issue concerned with the fundamental principles of the target program, and the meaning of the targets, is whether the increased use of recovered materials saves energy, and more particularly whether such increased use saves oil and natural gas.

The issue in many cases is whether targets representing the maximum technologically and economically feasible utilization of recovered materials should be lowered for those industry subdivisions where the enhanced use of recovered materials could consume more energy, or more scarce nonrenewable energy sources like oil and gas, than similar production using virgin materials. DOE believes that the mandate of the Congress is clear: That the targets should be set at the maximum feasible level, whether or not they represent minimal energy consumption in all circumstances. Congress stated its finding in section 461(a)(2) of NECPA that "substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years * * *" if the industries concerned "* * * increase to the maximum feasible extent utilization of recovered materials in their manufacturing operations." In other words, if the goal of maximum feasible utilization of "energy-saving recovered materials," as defined in section 461, were uniformly pursued in the industries identified, the overall effect, the Congress found, would be a net saving of energy and a saving of other scarce virgin materials. The fact that a net energy saving might not be achieved in each subdivision cannot, then, detract from the clear mandate on DOE to set targets for maximum feasible utilization of recovered materials. While the targets cannot then be limited by reference to potential adverse energy impacts, DOE is obviously concerned as to such impacts and is continuing to examine the question in industries where that possibility exists.

Several commenters provided information to DOE suggesting that the increased use of recovered materials by some subdivisions of the paper industry would result in increased consumption of oil and natural gas. It was recognized by DOE, when it began the analyses to implement Section 461, that there may indeed be some subdivisions of the four industries in which conservation of nonrenewable energy resources does not necessarily follow from increased use of recovered materials. This is not inconsistent with the findings of Congress that increased use of recovered materials by the four industries as a whole will conserve substantial volumes of industrial energy. The industry sectors in which increased use of recovered materials might lead to increased use of oil and gas are subdivisions of 2-digit SIC's and the potentially negative impact on energy conservation is restricted to particular industrial products, processes or geographical regions. This important subject is discussed further in the section on paper and allied products below.

One commenter felt that DOE had not followed the requirements of Section 461 by proposing targets for some industry sectors which do not reflect an increase in recovered materials use between the reference year and 1987. The commenter argued that the requirement for DOE to "set targets for increased utilization of energy-saving recovered materials * * *" precludes the setting of targets which do not strictly portend increases. DOE stresses that the targets for increased utilization of energy-saving recovered materials are required to be established with consideration of technological and economic feasibility, and that if additional utilization is not feasible the "maximum feasible increase" may be zero or negative. To

conclude otherwise would result in the establishment of infeasible targets. DOE does not agree with one commenter's belief that the feasibility of the targets is not important because they are voluntary. It should also be pointed out with respect to this comment that every positive target established represents an increase in the absolute amount of recovered materials projected to be utilized by 1987.

One commenter felt that goals for 1987 cannot be established because of the large number of variables affecting recovered materials use and the lack of precision with which their future values can be forecast. DOE recognizes that targets for 1987 are necessarily based on projections which include numerous uncertainties. Nevertheless, DOE is required by law to establish targets based on the best available information. DOE is also given the authority to modify the original targets in the future if, for example, better information indicates that they should be higher or lower.

One commenter felt that "energy-saving recovered materials" as defined in Section 461 of the NECPA includes only obsolete scrap, not prompt industrial or self-generated scrap as these terms were defined in the proposed rule. The rationale given by the commenter is that the definition of "energy-saving recovered materials" stipulates that they are "recovered from solid waste, as defined in the Solid Waste Disposal Act." The commenter maintains that a material must have been discarded for it to be considered solid waste within the meaning of the Solid Waste Disposal Act.

DOE excluded self-generated waste from the proposed targets and still believes that action to be appropriate for this program. The issue is therefore whether "prompt industrial scrap" should be included in the targets. In proposing targets DOE found that, generally, using increased amounts of recovered materials from outside the manufacturing operation, i.e., prompt industrial and obsolete scrap, as input to the manufacturing operation saves energy in that manufacturing operation. Furthermore, DOE believes that prompt industrial waste is always discarded since it is of no further use in the manufacturing operation which generated it. Whether it is discarded to a disposal site or to a secondary user does not determine its classification as solid waste. If the materials were not utilized by a secondary processor they would likely be discarded to a landfill or other disposal facility and hence their use contributes to achieving the purposes of Section 461.

DOE believes also that to exclude prompt industrial waste from the targets would be impractical for several reasons. To exclude it solely because it has not been discarded through the same system as obsolete scrap might encourage artificial transactions involving scrap for purposes of reporting recovered materials use. DOE has also found that in certain cases, e.g., scrap which is purchased from a third party such as a broker, prompt industrial and obsolete scrap cannot always be distinguished from one another. Several commenters, including the same commenter who maintained that prompt industrial scrap is not solid waste, supported DOE's finding with regard to the frequent difficulty encountered by the user of the waste in determining whether it is prompt industrial or obsolete. That commenter stated that in many cases "such classification will be impossible; while the mill can be sure that the material purchased from the scrap dealer is *some* type of scrap, it cannot say with confidence whether the scrap should be considered 'prompt industrial' or 'obsolete.' "

For the reasons given above, DOE has decided to include prompt industrial scrap in the final targets.

One commenter believed that DOE has failed to consider the impact of recent legislation, e.g., tax credits for recycling equipment, in setting the proposed targets. DOE considered existing laws and regulations and, to the extent possible, their impact on future recovered materials use. It should be noted that some of the recently enacted legislation has not yet been fully implemented through regulations, and its impact is difficult to assess. For example, the determination of what equipment actually qualifies as recycling equipment for purposes of tax credits has yet to be made. Therefore, assumptions with respect to implementation have been necessitated. To the extent that these assumptions are not accurate, later modifications of the targets may be appropriate.

It was suggested by one commenter that the practices of countries other than the United States be analyzed in setting the targets. DOE is generally aware of the conservation technologies and practices in many other countries throughout the world and of their applicability to this country. The comments, however, related to the economically feasible levels of recovered materials use abroad, rather than to foreign technologies that this country could adopt. The targets established pursuant to Section 461 are intended to be reflective of the ability of U.S. industry to use recovered materials, irrespective of the ability of industries in other nations to do so.

Some commenters suggested that DOE use a different ratio to define the recovered materials targets. Various alternatives were proposed but none is deemed by DOE to be more applicable to all of the industries involved than the ratio used in establishing the proposed targets, i.e., prompt industrial and obsolete scrap used in a manufacturing operation divided by the production input or output of the operation.

A summary of the development of each recovered materials utilization target is included below as part of this statement of basis and justification. Interested persons are invited and encouraged to review the detailed supporting documentation for the targets in order to more completely understand the complex determinants of recovered materials use, as well as the incentives and disincentives which exist today and those which are expected to exist during the target period.

B. Textile Mill Products

Recovered materials targets were established for each major subdivision of the textile mill products industry, the subdivisions being determined by the 4-digit Standard Industrial Code (SIC) classifications. These subdivisions were chosen because manufacturing processes and products are so diverse within the industry, that targets for the industry taken as a whole would have absolutely no meaning for an individual operating plant. For example, fabrics produced by cotton weaving mills (SIC 2211) are completely different from nonwoven fabrics (SIC 2297) in required characteristics, technical processes, and raw material input; this is true throughout the industry. There are even different processes and product requirements within certain 4-digit SIC classifications. However, the detailed information on a plant-by-plant basis necessary to fully identify such differences could not be obtained. DOE believes that targets based on the major subdivisions are sufficiently meaningful.

The development of materials recovery targets for each 4-digit SIC sector was accomplished by determining from available data the amount of material currently being reused and projecting the amount that can be used in 1987. The targets established are the percentage of fiber used by each sector that is to be satisfied by recovered materials. Qualitative judgments were made about the effect of various factors, such as:

• Anticipated new technologies that could affect the use of recovered materials by 1987.

• Anticipated changes in the intermediate and final markets that could affect the use of recovered materials.

Taking into account the effects of such factors, and of activities judged likely to be undertaken by the industry and by State, Federal, and local governments to increase the use of recovered materials, the targets for 1987 were established as presented in the following Table 1. Such projections, DOE believes, represent the maximum feasible increase in recovered materials utilization by 1987.

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SIC	INDUSTRY SUBDIVISION	PROCESSED MATERIAL		1978 LEVEL OF RECOVERED MATERIALS USE	1987 RECOVERED MATERIALS TARGET
		MILLION POUNDS	PERCENT OF TOTAL	PERCENT OF TOTAL FIBER & YARN PROCESSED	PERCENT OF TOTAL FIBER & YARN PROCESSED
2211	BROAD WOVEN FABRIC MILLS, COTTON	2,587.8	16.6	0	0
2221	BROAD WOVEN FABRIC MILLS, MAN MADE FIBER & SILK	2,717.5	17.5	0	0
2231	BROAD WOVEN FABRIC MILLS, WOOL	178.9	1.1	13	13
2241	NARROW FABRICS, COTTON, WOOL, SILK & MAN MADE	194.3	1.2	0	0
2251	WOMEN'S FULL LENGTH & KNEE LENGTH HOSIERY	89.8	0.6	0	0
2252	OTHER HOSIERY	120.4	0.8	0	0
2253	KNIT OUTERWEAR MILLS	315.7	2.0	0	0
2254	KNIT UNDERWEAR MILLS	147.5	0.9	0	0
2257	CIRCULAR KNIT FABRIC MILLS	1,094.5	7.0	0	0
2258	WARP KNIT FABRIC MILLS	496.9	3.2	0	0
2259	KNITTING MILLS, N.E.C.	7.7	0.0	0	0
2261	BROAD WOVEN FABRIC FINISHERS, COTTON	N/A	N/A	0	0
2262	BROAD WOVEN FABRIC FINISHERS, SILK & MAN-MADE	N/A	N/A	0	0
2269	TEXTILE FINISHERS, N.E.C.	N/A	N/A	0	0
2271	WOVEN CARPETS & RUGS	83.1	0.5	0	0
2272	TUFTED CARPETS & RUGS	1,306.7	8.4	0	0
2279	CARPETS & RUGS, N.E.C.	41.6	0.3	0	0
2281	YARN SPINNING MILLS, COTTON, SILK, MAN-MADE FIBERS	2,706.1	17.3	0	0
2282	YARN TEXTURIZING, COTTON, SILK, MAN-MADE FIBER	891.6	5.7	0	0
2283	YARN MILLS, WOOL	123.9	0.8	13	13
2284	THREAD MILLS	139.2	0.9	0	0
2291	FELT GOODS, EXCEPT WOVEN FELTS & HATS	58.5	0.4	59	80
2292	LACE GOODS	5.0	0.0	0	0
2293	PADDING & UPHOLSTERY FILLING	330.0	2.1	93	93
2295	COATED FABRICS, NOT RUBBERIZED	136.2	0.9	0	0
2296	TIRE CORD & FABRIC	741.4	4.8	0	0
2297	NON-WOVEN FABRICS	641.0	4.1	17	15
2298	CORDAGE & TWINE	95.2	0.6	22	22
2299	TEXTILE GOODS, N.E.C.	–	–	–	–

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The textile mill products industry is primarily a fabricated products industry. It processes natural fibers, man-made fibers, and continuous man-made filament into yarn and fabric. The Department of Commerce, in its Standard Industrial Code classification, indicates that this diverse industry (SIC 22) is made up of 30 four-digit subsectors performing the following manufacturing operations:

- Preparing fiber and subsequently manufacturing yarn, thread, braids, twine and cordage
- Manufacturing broad woven fabric, narrow woven fabric, knit fabric, and carpets and rugs from yarn
- Dyeing and finishing fiber, yarn, knit apparel, and fabric
- Coating, water proofing, or otherwise treating fabric
- Integrated manufacturing of knit apparel and other finished articles from yarn
- Manufacturing felt goods, lace goods, non-woven fabrics, and miscellaneous textiles.

Typical operations of the textiles industry include inspection and testing fibers, blending natural and man-made fibers, spinning into yarn, and weaving into fabric. This fabric is then inspected, dyed and finished to the specifications of the customer in one or more of many finishing processes.

Many of the approximately 7,000 plants in the U.S. textiles industry generate products that are used solely by other textile manufacturing operations:

- Apparel fabric is finished in the broad woven state and shipped to apparel manufacturers for cutting and sewing
- Finishing mills prepare greige goods for use in other operations
- Texturizing mills prepare continuous filament yarn for use in weaving and knitting operations.

Many times, because of the economics of scale, several greige mills will often supply greige goods to one finishing plant for final processing.

Operational economics are extremely critical for the firms in the textiles industry. The industry is mature and the largest firm commands about 7 percent of the market. There are over 5,000 firms in the United States, with only about 80 of them publicly held. In fact, the second largest firm is a privately-held company. To be able to operate in such a competitive market, continuous production at minimum cost is imperative. In 1976, the cost of materials was 61 percent of the value of textile mill products industry shipments and rising rapidly. The industry is working on new processes and equipment to utilize materials more efficiently and reduce the waste of materials. However, it is essential to maintain the quality demanded by intermediate and final consumers such as the apparel industry, retail chains, and individual customers.

The textile mill products industry is also under competitive pressure from foreign textile imports. The textiles market is growing at about 3 percent per year and imports are growing at 6 percent. Cheaper foreign imports exert a pressure on the industry to reduce its labor intensiveness and increase material utilization by installing more modern equipment. Progress has and will continue to be slow because of a lack of investment capital. The industry's current profit is about 2 percent of sales and there is little capital available from the equity or debt markets.

There is also a large demand for capital created by several government regulations, primarily the OSHA cotton dust and noise standards, and the EPA's environmental standards. The industry has little availability of nondiscretionary capital and this is not anticipated to change between now and 1987.

To facilitate an understanding of the textile mill products industry with respect to recovered materials utilization, the industry was divided into two tiers. The first tier produces high quality, fashion-oriented outerwear, while the second tier is involved primarily in the production of utility-oriented products such as upholstery filling, cordage and twine.

The first tier of the industry contains 85 percent of all materials processed. It includes SIC's 2211 through 2284 and SIC's 2292 and 2295. In this first tier, a great deal of emphasis is placed on the style and fashion of the finished consumer product (apparel, sheets, towels, etc.). Changes in the quality, appearance, and feel of the products in this tier are dictated by consumer choice, not by the textile manufacturers. For example, one apparel firm cuts all of one apparel item from lengths of fabric no greater than 10 yards to help ensure color consistency in the various parts of the item that are to be fitted together.

In the first tier, quality control of the required fiber, yarn, and fabric characteristics is strenuous. In many greige goods operations, each yard of fiber is inspected for defects and imperfections before being finished. A product that is not totally free of imperfections is downgraded to seconds or used in second-tier products. In texturizing man-made continuous filament yarn, each package (doff and bobbin) of yarn is woven into a small sample, dyed with a sensitive color, and graded relative to a master. From 20 to 30 percent of all inspected packages are downgraded as a result of this inspection. The inspection guarantees the dyeability of the texturized yarn, a guarantee required by the weaving and finishing mills.

Over 12 billion pounds of virgin fiber were purchased by the textile mill products industry in 1977. About 93.2 percent of this was consumed in producing first-tier products. The remaining virgin fibers, which constitute about 6.8 percent of the total, are those that are too short to make an acceptable product (comber and wool noils) and those that are process operating waste (card strips, sweep waste, thread waste, mill or process ends). These wastes become input material to the second-tier segments of the industry.

Limitations on the reuse of such textile fibers and yarn in first-tier products are created in part by stringent demands for product quality and by requirements that the products have certain characteristics. Satisfactory first-tier products result when the various elements of the spinning, weaving, and finishing processes are closely controlled. One of the elements that must be controlled includes the quality of short, immature, natural (cotton or wool) fibers in the basic yarn.

The picking, carding, and combing operations in the initial stages of the spinning process remove foreign matter, align fibers, and remove shorter and undesirable fibers. Natural cotton fibers are up to 1⅝ inches long. For first-tier quality yarn, fibers less than ⅞ inch in length are removed. These shorter fibers tend to lend a bulkiness and uneven surface to the resulting yarn and fabric, giving them undesirable strength, feel, appearance and dyeability characteristics. In some lower quality goods these shorter fibers are permissible, but most of these fibers are shipped to the second tier of the industry. Some very fine cotton products (combed cotton) have additional fibers combed from the yarn to give a lustre or high sheen to the final fabric. Yarn and fabric are tested extensively to control the quality, by both the textile mill and the intermediate customer (apparel, government, or chain retailers).

Currently, and in the foreseeable future, there are no technologies available to reduce yarn or fabric wastes to the fiber form without producing a predominance of very short fibers (¼ inch or less). (Yarn and fabric wastes are the major non-reworkable prompt and obsolete wastes available for reuse in the textile mill products industry.) Using fibers reclaimed from

yarn or fabric wastes, or from obsolete wastes, to produce first-tier products would result in products with inferior characteristics and would be unacceptable to intermediate and final consumers. Some yarn from these types of fibers is respun in Southern Europe and the Far East but the resulting fabrics are unacceptable for the U.S. market. Problems with short fibers severely limit the use of yarn or fabric wastes, and obsolete wastes, as recovered materials in the first tier of the textile mill products industry. Therefore, SIC 2211 through 2284 (except for SIC 2231 and 2283), SIC 2292 and SIC 2295 are assigned zero recovered materials targets.

In the manufacture of worsted wool fabric, the wool is combed to remove the shorter fibers and to give a much smoother and lightweight fabric. These shorter fibers (wool noils), which can be up to 6 inches in length, can be added into yarn to make woolen fabric for women's garments, blankets, coats, etc. The noils increase bulkiness and insulating capability while still reducing the average price of the resulting fabric.

Wool noils are currently about 13 percent of the material input for woolen products and that percentage is unlikely to change between now and 1987. Wool constitutes about 1 percent of the fiber used in the United States. With the Wool Labeling Act, and the continued growth in popularity of man-made fibers and man-made/cotton blends, it is not projected that more wool or more wool noils will be used.

The second tier of products in the textile mill products industry includes products where stress is placed on utility rather than style or fashion. Products in the second tier are covered by SIC's 2291, 2293, 2296, 2297, and 2298 and consist of cordage and rope, tire cords, furniture padding and stuffing, bandages, nonwoven products, apparel padding, felting, pocket linings, apparel linings, etc. Quality is maintained in this second tier of the industry, but emphasis is placed on strength, absorbency, and feel. Therefore, the textile manufacturers have more freedom in producing these items than they do with items in the first tier, and reduced production costs are given more consideration. This sector of the industry represents less than 15 percent of the total fiber usage in the industry.

Much of the material utilized in second-tier products is by-product waste from first-tier mills. In fact an industry subsector (SIC 2294) composed of waste processors exists to purchase, preprocess, separate and grade prompt waste for the purpose of selling to companies making second-tier products. It is estimated that between 800 million and 1 billion pounds of waste passed from the first-tier to second-tier manufacturers during 1978 (about 6.8 percent of total virgin fibers).

Basic economic forces encourage the use of waste material in the second-tier industries. This is particularly true in view of the large difference in the price obtained for virgin and recovered material. For example, 60-cents-per-pound virgin cotten sells for 5 cents per pound as a waste by-product. Therefore, textile manufacturers are concentrating on using available capital to install more material efficient equipment, to improve material utilization efficiency and reduce waste generation.

Except for the tire cord and fabric sector (SIC 2296), which has strict strength and safety regulations imposed by the Department of Transportation and is assigned a zero target, four sectors in the second tier of the industry have the following recovered materials targets:

• *Felt goods, except woven felts and hats (SIC 2291).* Currently, about 35 million pounds of recovered materials are used in felts; this is about 59 percent of the total material processed. To reduce product costs, more recovered materials can be used, although not for the very highest quality felts. Therefore, a target of 80 percent is established for this sector.

• *Padding and Upholstery Filling (SIC 2293).* This sector primarily uses chopped fibers and is limited in its use of recovered materials only by flame retardation requirements. Therefore, the 93 percent utilization level is projected to continue, and is the target for 1987.

• *Nonwoven Fabrics (SIC 2297).* The spun bonded process (which must use virgin resin) is expected to grow much faster than the nonwoven industry in general between now and 1987. Therefore, the current 17 percent use of recovered materials in nonwovens is expected to decline and a target of 15 percent is set for 1987.

• *Cordage and Twine (SIC 2298).* This sector currently uses recycled fibers as 22 percent of its material input. This is not anticipated to increase because of the strength requirements of many products; therefore, the 1987 target is established as 22 percent.

During 1979, industry reports were received by DOE documenting the projected 1987 use of recovered materials by trillion Btu users in the textile mill products industry. These data corroborated the current use figures previously developed and reinforced the proposed target levels.

The target established for the textile mill products industry have been established at the zero level for sectors utilizing over 90 percent of the total virgin materials used in the industry. The targets were set at this level for these sectors because there are no current or foreseen technologies available to provide recovered fibers in a form which can be utilized in manufacturing acceptable products.

Research and development to overcome the technological limitations will be extremely expensive and would further reduce the limited available capital funds that are more appropriately expended for modern equipment to improve materials utilization and productivity. Such equipment will probably also increase the materials-use efficiency and reduce prompt industrial waste generation (an effect that produces the same desirable result of reducing virgin materials use as does increased use of recovered materials). Development of such equipment would not provide for the use of obsolete textiles waste because of the almost infinite blends of fiber types and irreversible degradation resulting both from the initial dyeing and finishing operations and from normal consumer use.

Comments were received in support of the proposed 13 percent targets for both SIC 2231 (Broad Woven Fabric Mills, Wool), and SIC 2283 (Yarn Mills, Wool). One commenter stated that no technology exists to increase the target levels, pointing out that reworked fibers have a tendency to resist dye stuffs and thus lessen the product quality to the consumer. One comment suggested that these targets each be raised to 16 percent because increased recycling is plainly possible. However, DOE has determined that insufficient supporting data and feasibility analyses exist which support such a higher target level. After evaluation of public comments, DOE has determined that the proposed targets for SIC's 2231 and 2283 should be adopted.

With regard to the proposed 15 percent target for SIC 2297 (Non-Woven Fabrics) a commenter stated that it is unfair to assign a target for that industry segment or, indeed, on a process basis at all, but rather that targets should be set on an end-use fabric or market basis. Noting that the industry is already operating within close profit margins, it was stated that non-woven fabric manufacturers are already using the maximum tolerable amount of waste fibers that are acceptable in the end-use product application. Given these market constraints, it was nevertheless agreed by the commenter that a 15 percent target for 1987 could be met by the

industry. With regard to setting a target for an industry segment in the textiles industry, DOE believes a breakdown according to SIC Code is the most reasonable and practical method. Should targets be set on an end-use fabric basis, there could be hundreds of targets. This would add significantly to the administrative burden on both DOE and the reporting corporations. Another commenter stated that the target should be raised to 20 percent; however, insufficient supporting information was provided to DOE in support of such a target level. As a result of all comments received, the proposed target is adopted for SIC 2297, and no modifications have been made with respect to the definition of industry sectors for which targets are established.

Several comments supported the zero targets for SIC 2271 (Woven Carpets and Rugs), SIC 2272 (Tufted Carpets and Rugs) and SIC 2279 (Carpets and Rugs). One commenter stated that anything but a zero target would be infeasible for technical and economic reasons. At the present time, no known technology exists or is anticipated which would permit recovery of yarn from waste carpet scrap or from clippings sheared off the pile yarns. Another commenter suggested that all zero targets be changed to 3 percent targets. However, no analysis was provided which satisfactorily demonstrates either the technical or economic feasibility of a 3 percent target. It is concluded that the proposed target levels are appropriate and should be adopted on the basis that there exists no technological ability to utilize recovered materials in these sectors.

Comments were received in support of the proposed zero targets for SIC 2252 (Other Hosiery), SIC 2254 (Knit Underwear Mills), SIC 2257 (Circular Knit Fabric Mills), SIC 2258 (Warp Knit Fabric Mills), and SIC 2259 (Knitting Mills). One manufacturer stated that a technological breakthrough may eventually permit recycling of recovered materials but its experience indicates that this is not expected to occur within the near future. In fact, this manufacturer revealed that it had conducted tests on garnetted knit fabric and tried to run the resulting fibers through its spinning and knitting processes. With a 5 to 10 percent recycled-to-virgin fiber ratio, it was found that 50 percent of the recycled fibers fell out in the subsequent carding operation. Additional fiber fallout occurred as the fibers were further processed. After extensive investigation and experimentation, the technical problems associated with the use of recycled fibers could not be overcome and the project was terminated. In commenting on the apparel garments knitted from yarn using the recycled fibers, the same manufacturer stated that the fabric was inferior to anything that it would normally produce and it would not have made an acceptable garment, either from the standpoint of defects or fabric strength.

Another commenter recommended that the targets for these industry subsectors be raised from zero to 3 percent. However, no data or analyses were presented to support such targets. It is concluded that the proposed target levels be adopted because there are no known technical processes which can utilize recovered materials in these sectors, consistent with production of acceptable quality.

Several comments agreed with the proposed zero targets for SIC 2211 (Broad Woven Fabric Mills, Cotton), SIC 2221 (Broad Woven Fabric Mills, Manmade Fiber and Silk), and SIC 2281 (Yarn Spinning Mills, Cotton, Silk, Manmade Fibers). One manufacturer stated that fiber technology, as discussed in the DOE textiles target support document, requires virgin fibers for natural, manmade and blended products. No known technology exists to recycle fibers into filament fabric. One industry representative testified that "most textile fabrics used manmade fibers or a blend of the 1500 on-the-shelf versions of polyester fiber."

This large variety of basic fiber raw materials presents severe process problems should recycled fibers of unknown chemical history be integrated into the virgin fiber stream.

Another commenter advocated that the targets for these sectors be raised to 3 percent as an incentive to force the textile industry to develop the fiber recycling technology. Since targets must represent the maximum technically and economically feasible increase in the use of energy-saving recovered materials that the industry can achieve by 1987, DOE believes that only the adoption of zero targets seems reasonable at this time, as there is no indication that the necessary technological advances will be achieved.

General comments were received pertaining to the other proposed target levels, both zero and non-zero. In summary, the textiles industry representatives who provided comments supported all proposed levels. One commenter recommended that 11 target levels be increased by 3 to 5 percentage points. However, no data or analyses were presented to demonstrate the feasibility, either technical or economic, of such increased targets between 1979 and 1987. Therefore, all target levels proposed for the textiles industry have been adopted.

C. Paper and Allied Products

The paper and allied products industry, Standard Industrial Classification (SIC) 26, is made up of six 3-digit groups. Of these six groups, only the four involved in pulping and papermaking (SIC 261, 262, 263, and 266) can use recovered materials in manufacturing. Analysis of the potential for use of recovered materials is therefore limited to the following four groups:

- SIC 261 (pulp mills) includes establishments engaged primarily in manufacturing pulp from wood or other materials such as rags and waste paper. Pulp mills that are combined with paper or paperboard mills are not included in SIC 261, unless the pulp mill is reported separately.
- SIC 262 (paper mills except building paper mills) comprises establishments engaged primarily in manufacturing papers other than building paper, using wood pulp and other fibers. These mills may also manufacture converted paper products. SIC 262 also includes pulp mills that are combined with paper mills.
- SIC 263 (paperboard mills) includes establishments engaged primarily in manufacturing paperboard and converted paperboard products. SIC 263 also includes pulp mills that are combined with paperboard mills.
- SIC 266 (building paper and board mills) comprises establishments engaged primarily in manufacturing building paper and board from wood pulp and other fibers. SIC 266 also includes pulp mills that are combined with building paper and board mills.

Because these four groups embrace diverse products and manufacturing processes, the industry was further segmented into homogeneous components suitable for analysis. Because data for the paper industry are most often reported for the 10 major grades of paper and paperboard, DOE segmented the industry according to these 10 grades, for purposes of analysis. The 10 grades selected account for more than 99 percent of the output of the paper industry, as shown in the following table, which also shows the final recovered materials target tor each grade:

Paper or paperboard grade	U.S. production 1977 (million tons)	Percentage of total U.S. production	Target (percent)
Newsprint	3.871	6.3	18
Tissue	4.285	6.9	30
Printing and writing papers	13.848	22.4	6
Packaging and industrial converting papers	5.378	8.7	4
Unbleached kraft paperboard	13.651	22.1	10
Semichemical paperboard	4.264	6.9	26
Solid bleached paperboard	3.721	6.0	0
Recycled paperboard	7.317	11.8	108
Construction paper	1.786	2.9	55
Insulating and Hard Pressed Board	3.682	5.9	17
Total	61.803	99.9	

In determining final targets, the industry has been segmented to a greater extent than it had been in development of the proposed targets. The paperboard segment, for final target purposes, was divided into four separate segments—unbleached kraft, semichemical, solid bleached, and recycled. This was done to distinguish between those paperboard types that are manufactured primarily from virgin fibers and those manufactured primarily from secondary fibers. The construction paper and board category was segmented into (1) construction paper and (2) insulating and hard pressed board because of the lack of similarity between the two product types.

Several commenters urged DOE to set one target for the industry rather than targets for individual product groups. DOE determined that, due to the diversity of products, processes and types of recovered materials in the industry, and the varying abilities of the industry subdivisions to use recovered materials, a single industry target would not be nearly as meaningful as targets for the subdivisions. In fact, based on the recommendation of another commenter, separate targets have been established for the construction paper and the insulating and hard pressed board groups of the construction paper and paperboard subdivision.

Two types of fibrous waste products can be substituted for virgin materials in the papermaking process and could thus be included in the target for recovered materials: (1) Secondary-fiber paper, including both postconsumer waste paper (e.g., recycled newspapers) and waste paper from the paper manufacturing and converting process (e.g., paper that does not meet specifications, or clippings from envelope manufacturing); and (2) nonpaper fibrous waste (e.g., wood scrap, sawdust, bagasse and rags).

This analysis focuses on secondary fiber and does not consider nonpaper fibrous waste. Although the paper industry recovers considerable quantities of wood scrap and uses it in paper manufacturing, the National Energy Conservation Policy Act does not require DOE to set targets for use of nonpaper fibrous waste. Moreover, the definition of recovered materials as secondary fiber is consistent with the definitions applied to the other industries for which similar targets are being developed under the Act.

The following five general grades of secondary fiber were identified as sources of recovered materials.

- *Old Newsprint.* Old newspapers, including overruns.
- *Old Corrugated.* Old corrugated containers, usually obtained from retail establishments, and clippings obtained from converting plants.
- *Pulp Substitutes.* Materials that can be converted into pulp with a minimum of processing, including manufacturing wastes (e.g., residues from paper-converting operations) and consumer wastes (e.g., computer tab cards).
- *High-Grade De-inking.* Preconsumer converting and publishing scrap, and postconsumer books, magazines, ledger stock, milk cartons, and other scrap.
- *Mixed Paper.* Waste paper of various qualities, including distributors' and consumers' overstocks and obsolete inventories, and mixed paper separated from the solid-waste stream.

Use of secondary fiber in 1987 was projected for each of the 10 paper and paperboard grades, based on technical feasibility and economic practicality. However, in setting the targets for use of recovered materials in the paper and allied products industry, the adequacy of projected 1987 supplies of waste paper was also considered.

Supply projections for each waste-paper grade were developed using available data and compared with 1987 secondary-fiber demand in the 10 paper and paperboard grades. It was found that 1987 demand for secondary fiber will likely exceed supply for three paper and paperboard grades: Tissue, printing and writing papers, and unbleached kraft paperboard. For the other seven paper grades, there will likely be surpluses of secondary fiber. In theory, these surpluses could be used to balance the deficits. Consumer tissue and printing and writing papers have very stringent quality requirements, however, and can use only pulp substitutes and high-grade de-inking. Thus, supply deficits for these two paper grades cannot be eliminated by using other grades of waste paper. Moreover, it is unlikely that pulp substitutes and high-grade de-inking can be diverted from the other paper and paperboard grades for use in tissue and printing and writing papers. Hence, DOE revised the projections of secondary-fiber use in tissue and printing and writing papers, to reflect these supply constraints. For unbleached kraft paperboard, DOE projects that deficits could be eliminated by diverting surpluses of waste paper (primarily old corrugated) from recycled paperboard.

During the comment period, a number of comments focused on the effectiveness of the targets in meeting Congress' goal of reduced energy consumption. DOE notes that section 461 of NECPA does not include any requirement to consider consumption of energy or fossil fuels in establishing the targets. Section 461 does state the Congressional "finding" that the maximum feasible use of recovered materials in manufacturing will conserve substantial industrial energy and other scarce natural resources.

Conflicting testimony has been provided to DOE on whether use of secondary fiber in the manufacture of paper and paperboard saves fossil fuels. DOE cannot conclusively state that the use of recovered materials does or does not save fossil fuel in all cases. Increased use of secondary fiber by the paper industry may either increase or decrease the use of purchased energy (primarily fossil fuels), depending on the extent to which virgin or secondary fiber not used in manufacturing will be burned to produce energy.

Although some testimony insisted that increased use of recovered materials would not increase fossil-fuel consumption under any circumstances, fossil-fuel savings in many sectors of the industry appear to depend on the percentage of waste paper or pulpwood that would be burned for energy were it not used in manufacturing. The final target support document includes an analysis of the impact on energy consumption of various levels of direct energy recovery from waste paper and pulpwood. DOE has established targets that reflect the maximum technologically and economically feasible use of recovered materials, regardless of whether achieving the targets would reduce the use of fossil fuel, and will conduct additional analyses during 1980 which will be intended to better define the impact on energy associated with attainment of the targets. This approach is consistent with the Congressional mandate to establish targets based on maximum feasible recovered materials utilization.

Some other statements urged DOE, in setting targets based on the "maximum

feasible increase" in the use of recovered materials that the paper industry could attain by 1987, to disregard considerations such as consumer acceptance of paper products and the economics of their production. DOE believes, however, that consumer acceptance is an aspect of economic feasibility. The final targets are based on the criteria of technical feasibility and economic practicability including, were appropriate, considerations of consumer acceptance.

Several commenters criticized DOE for failing to consider the impact of potential Federal, State and local government incentives for the paper industry to recycle and use recovered materials. DOE believes that it is not realistic to assess the impacts of various proposed government actions that have not yet been taken; however, it has assessed the impacts of current Federal legislation, such as the Resource Conservation and Recovery Act, and actions taken by States to increase recovered materials use. This analysis is included in the final target support document.

Several commenters argued that the analysis did not take into account regional differences in the economics of production and raw-material supply, customer requirements, and manufacturing capacity. Because of such factors, the economically attractive fiber input mix will vary among regions. For example, several commenters questioned why DOE's economic analyses for many industry segments show virgin fiber to be more economically attractive than secondary fiber, when significant investments in secondary-fiber-based capacity are being announced. DOE's economic analyses are based on data for representative mills. DOE certainly agrees that production costs do vary among paper mills, particularly as a result of regional differences in cost and availability of production inputs; however, it was not reasonable for DOE to incorporate into its analyses regional variations in the economics of production and the availability of raw materials. Furthermore, DOE did not receive during the comment period any data that would enable it to perform such analyses. DOE has therefore concluded that, despite its limitations, the selection of a few cases to represent the industry provides the best analysis that can be done given the information available, within the time restrictions mandated by the legislation. Furthermore, the targets are not intended to apply to any particular regions but are industry averages. Also, the target levels deriving from the generalized analysis have been tempered by information on announced changes in plant capacity, where that information is available.

Several comments held that the analysis should have considered possible changes in waste-paper prices in response to a sharper increase in demand. DOE has performed an analysis of the sensitivity of production economics to waste-paper prices. The results of this analysis are included in the support document for those sectors in which it has a significant impact.

Several comments focused on the future availability of various grades of waste paper. Some of these comments stated that DOE's projections of waste-paper availability in 1987 were too conservative; other comments considered them overly optimistic. Consequently, as presented in the support document, DOE has developed different scenarios for the availability of secondary fiber in 1987 and considered their impact on the targets. Other comments stated that there is little potential for increasing the supply and recoverability of high grades of waste paper, and DOE has taken this into account in establishing the final targets.

A description of DOE's determination of the maximum feasible increase in the use of recovered materials, by each subdivision of the paper industry, is provided below.

Newsprint. Newsprint is an undifferentiated commodity product that can be manufactured from virgin fiber, old newsprint, or some combination of the two. The technically feasible limit of secondary-fiber substitution in newsprint manufacture is 100 percent.

Technological changes in newspaper publishing may affect the acceptability of newsprint made from secondary fiber. Most newspapers are now printed using a photoengraving process, which requires higher newsprint strength than earlier methods. Because virgin-based paper products have greater surface strength, newsprint made from secondary fiber may be at a relative disadvantage. However, the advent of twin-wire drying, which provides greater surface strength, is expected to minimize this disadvantage and might eliminate it.

To determine the maximum amount of secondary fiber that could be economically used in newsprint manufacture, the economics of using old newsprint in both existing and new capacity were considered.

In the economic analysis for new plants, the return on investment (ROI) for representative plants was calculated based on the following input mixes:

- 100 percent virgin fiber, consisting of 90 percent thermomechanical pulp (TMP) and 10 percent kraft pulp: 8.4 percent ROI
- 65 percent virgin fiber (TMP) and 35 percent secondary fiber: 9.5 percent ROI
- 100 percent secondary fiber: 12.5 percent ROI.

For expansions of existing capacity, DOE calculated ROI's for representative plants using the following mixes of additional fiber input:

- 100 percent virgin fiber (TMP): 21 percent ROI
- 100 percent secondary fiber: 23.5 percent ROI.

These returns indicate that 100 percent secondary fiber would be the preferred input to both new plants and expansions of existing plants. However, the differences between the returns are small, and the relative attractiveness of virgin- and secondary-fiber inputs may therefore be sensitive to relatively small changes in newsprint price capital costs, or operating costs. To assess this sensitivity, DOE examined the effects of a 5-percent increase or decrease in these variables on ROI for each input mix. This sensitivity analysis showed that secondary fiber would not always be a more economically attractive input than virgin fiber, expecially for expansions of existing plants.

Despite the apparently unfavorable ROI associated, on the average, with manufacturing newsprint from virgin fiber, virgin-fiber-based additions to capacity may be economic under certain circumstances. For example, if the plant is located far from the urban centers where old newsprint is plentiful, investment in virgin-fiber-based capacity might be economically attractive, particularly for the integrated manufacturers that dominate newsprint production. The economic analysis of newsprint capacity expansions did not indicate conclusively that either virgin- or secondary-fiber-based capacity is preferable.

Because the economic analysis of capacity expansions is not conclusive, and because most additions are being made by expanding existing plants, DOE projected that the trend established in announced capacity additions between 1978 and 1982 (i.e., secondary-fiber use equivalent to 21 percent of production) would continue from 1982 to 1987. Use of secondary fiber is therefore expected to increase from 825,000 tons in 1982 to 920,000 tons in 1987, or 18 percent of projected 1987 production of newsprint.

Concerning the target for newsprint, it was pointed out to DOE during the comment period that recently announced additions to capacity should be reflected in the target for use of

secondary fiber in newsprint manufacture. As indicated above, DOE has taken this additional information into account in establishing the final target for newsprint. DOE was also urged to raise the target for newsprint and to establish incentives for the industry to meet a higher target than that proposed. DOE believes, however, as mentioned previously, that the target should not be based on the effect of uncertain future government incentives. The law does, however, allow DOE to revise targets as additional information becomes available and new government programs are enacted.

Tissue. Tissue is made in a variety of grades, containing from 0 to 100 percent secondary fiber.

There are two major types of tissue: Sanitary tissue, which includes facial and toilet tissue, towels, napkins, and diapers; and nonsanitary tissue, which includes wrapping tissue, waxing tissue, and industrial cellulose wadding. In 1977, the four major sanitary tissue products (facial tissue, toilet tissue, toweling, and napkins) accounted for about 90 percent of total tissue production. The analysis of tissue focused on these four products; the secondary fiber use projected for these products was extended to the entire tissue subdivision.

Sanitary tissue products are made from 0 to 100 percent secondary fiber, containing all grades of waste paper. However, pulp substitutes and high-grade de-inking accounted for 74 percent of the secondary fiber used in 1977.

There are no technical barriers to using secondary fiber in tissue production. However, concern for product quality, as indicated by "feel," absorbency, and brightness, tends to dictate the grades and amounts of secondary fiber that may be used.

Quality requirements for tissue products vary, depending primarily on the market segment served. The market for sanitary tissue may be divided into two major segments: the consumer market and the institutional market. Consumer tissue, which is used in households, accounts for about two-thirds of sanitary tissue sales. It is distributed through supermarkets and stores. Because the buyer of consumer tissue is usually its user, this tissue must be high quality. Institutional tissue, which is used in private and public institutions, is distributed through paper merchants and industrial supply houses. Because the buyer is usually not the user, quality requirements are less stringent. Price is a very important consideration for the institutional buyer.

Because its quality requirements are very high, consumer tissue usually contains less waste paper (about 17 percent of total fiber furnish in 1977) than does institutional tissue (about 50 percent of total fiber furnish in 1977). It is, however, possible to make acceptable consumer as well as institutional tissue from 100 percent secondary fiber. Nearly all of the secondary fiber that is used in manufacturing consumer tissue comes from high-grade de-inking stocks and pulp substitutes. Lower grades of waste paper, i.e., mixed papers, old newsprint, and old corrugated, are used to a greater extent in manufacturing institutional tissue.

To determine the maximum economical use of secondary fiber, DOE examined the economics of using increased secondary fiber in existing tissue capacity and in additions to capacity.

In existing capacity, it is possible to replace virgin fiber with high-grade pulp substitutes without making substantial changes in plant and equipment. The economics of this substitution depend on the type of mill. Three major types of tissue mills use virgin fiber (for technical reasons, mills that use virgin fiber generally supplement it with some secondary fiber):

- Those that manufacture virgin pulp on-site from pulpwood
- Those that acquire dried wood pulp from pulp mills owned by the same company
- Those that purchase dried wood pulp on the open market, i.e., market pulp.

Most tissue mills are located near population centers. Because sources of pulpwood are usually distant from population centers, most tissue mills that use virgin fiber find it more economical to acquire dried wood pulp than to acquire pulpwood and convert it. The tissue mill that acquires dried wood pulp need not have any pulping equipment other than stock preparation equipment, which converts dried pulp into wet feedstock for the paper machine.

To project the use of secondary fiber in additions to tissue manufacturing capacity, DOE considered the consumer and institutional grades of tissue separately. To project the use of secondary fiber in additions to consumer-tissue capacity, the economics of producing consumer tissue from virgin fiber and from secondary fiber were compared, both in new plants and in expansions of existing plants.

For both new plants and plant expansions, the economics were too close to indicate whether virgin or secondary fiber is generally the most economically attractive input.

For institutional tissue, cost data were unavailable. DOE was therefore unable to conduct an economic analysis of using secondary fiber in the production of institutional tissue. However, 93 percent of the expansions of institutional tissue capacity announced for the period 1977–1981 are based on secondary fiber. These expansions should increase the use of secondary fiber in making institutional tissue from 708,000 tons in 1977 to 810,000 tons in 1981. DOE projects that this trend will continue through 1987, increasing the use of secondary fiber to 975,000 tons in 1987.

Total tissue production is expected to increase from 4,285,000 tons in 1977 to 4,975,000 tons in 1987. Two-thirds of total 1977 tissue production, or 2,847,000 tons, was consumer tissue; the remaining 1,438,000 tons were institutional tissue. It is projected that relative production of consumer and institutional tissue will be consistent with this ratio through 1987. Summing the estimates of secondary fiber use in consumer and institutional tissue, it is projected that the total use of secondary fiber in tissue manufacture should increase to 1,594,000 tons in 1987. Given the projected tissue production of 4,975,000 tons, this level of secondary-fiber use implies a recovered materials utilization rate of 32 percent. Due to the forecast of a deficit in the type of secondary fiber required by this sector in 1987, as discussed above, the final target was revised to 30 percent.

The proposed target for this paper grade was 38 percent. Several commenters felt that the proposed target of 38 percent for tissue products was unrealistically high. The analysis in support of the proposed target was criticized for failing to recognize important differences between consumer tissue and industrial tissue. Commenters indicated that the analysis has overstated the price differential between secondary and virgin fiber and had understated the price differential between consumer and industrial tissue products. It was also shown that the prices and manufacturing costs of consumer and industrial tissue products fluctuate considerably. Moreover, it was claimed that there is not as much flexibility in making consumer tissue from lower grades of secondary fiber as the analysis concluded. Taking all of these comments into account, DOE developed the estimate of the potential for secondary-fiber substitution in tissue manufacturing described above. The details of the analysis underlying this estimate are presented in the support document.

Other comments argued that 38 percent is too low a target for tissue products and that DOE should consider the possibility of substituting secondary fiber in existing tissue production capacity. DOE currently believes, however, that because the target for tissue is restricted by projected 1987 supplies of high-grade secondary fiber, it is unnecessary to consider substituting secondary fiber in existing capacity, even if such substitution might sometimes be economically feasible if the supply of high-grade secondary fiber were unlimited.

Printing and Writing Papers. Printing and writing papers are made in a variety of grades, containing from 0 to 100 percent secondary fiber.

There are seven major grades of printing and writing papers: uncoated groundwood, coated groundwood, uncoated free sheet, coated free sheet, cotton fiber, thin papers, and bleached bristols. Both coated and uncoated groundwood papers contain at least 25 percent groundwood fiber; the remaining fiber input is primarily chemical pulp. They are used in applications that do not require permanence, because they discolor when exposed to ultraviolet light.

Uncoated and coated free sheet papers nominally contain no more than 25 percent groundwood fiber, with the remainder of the fiber input being primarily chemical pulp. In practice, practically no groundwood is used in manufacturing free sheet papers.

Cotton fiber papers are made from a medium containing at least 25 percent cotton or similar fibers. They are used where paper of the highest quality and durability is required, *e.g.*, in currency notes. Thin papers are used in special applications, such as carbonizing and cigarette papers.

Bleached bristols are identical to solid bleached paperboard but have lower basis weights. They are used for tabulating and index cards, tags, file folders, postcards, etc.

Four of the grades (uncoated and coated groundwood; uncoated and coated free sheet) accounted for nearly 90 percent of total production in 1977. The technical and economic analyses of printing and writing papers focus on these grades; the secondary fiber use projected for these grades was extended to the entire printing and writing grade.

Both groundwood and free sheet papers are currently manufactured from 100 percent secondary fiber; there are no technical barriers to using secondary fiber in the production of these papers. However, to maintain high product quality, as indicated by brightness, opacity, printability, uniformity of thickness, and surface characteristics, only the high grades of secondary fiber (i.e., pulp substitutes and high-grade de-inking) may be used.

Both groundwood and free sheet papers made from 100 percent secondary fiber are functional and are accepted by the consumer, as long as they consistently meet standards for product quality. Consistently high and uniform product quality is very important to successful competition in this market. For coated groundwood and coated free sheet papers, which must be of very high quality, most manufacturers tend not to use secondary fiber, because it is likely to contain contaminants.

The economic analysis for this paper grade focuses on uncoated groundwood paper and uncoated free sheet. The fibrous composition of coated and uncoated groundwood papers is essentially the same; coated groundwood paper has a clay coating applied to it. Except for the coating stage, the papermaking processes for the two papers are nearly identical. Hence, the maximum economical use of secondary fiber in uncoated groundwood also applies to coated groundwood.

In most instances, the use of secondary fiber in the production of these papers may be increased only in additions to capacity. Existing capacity appears to offer little opportunity for increased use of secondary fiber.

Most printing and writing mills that are based on virgin fiber have pulping operations on-site. To replace virgin fiber with secondary fiber in such a mill, virgin pulping capacity would have to be idled or the virgin pulp used elsewhere. These alternatives are generally not economic.

To project the use of secondary fiber in this sector, DOE compared the economics of producing paper from different mixes of fiber input, both in new plants and in expansions of existing plants.

Economics will vary depending on geographical location, proximity to sources of raw material supply, specific plant design, and other factors. In some cases, virgin fiber may be more economically attractive than secondary fiber. Moreover, the ROI's calculated are quite sensitive to changes in assumptions about product price, capital cost, and operating cost.

Most additions to capacity being announced are expansions of existing plants. ROI's for plant expansions indicate that 100 percent secondary fiber is the preferred input for groundwood papers, provided an adequate supply of high-grade de-inking and pulp substitutes is available. For free sheet papers, the economic analysis does not indicate a clear preference for either virgin or secondary fiber.

To project 1987 use of secondary fiber in printing and writing papers, DOE considered secondary fiber use, through 1981, in capacity additions that have already been announced, and projected both production and secondary fiber use for the period 1982–1987. For the period 1977–1981, capacity additions already announced should increase production from the 1977 level of 13,848,000 tons to 15,561,000 tons by 1981. Correspondingly, the use of secondary fiber should increase from 190,000 tons in 1977 to 1,030,000 tons in 1981.

Production and secondary fiber use for both groundwood and free sheet papers, for the period 1982 to 1987, were then determined. For groundwood papers, it is projected that all new production capacity will be based on 100 percent secondary fiber, because it is economically attractive. About 30 percent of production capacity for printing and writing papers is dedicated to groundwood papers. Total production of printing and writing papers is projected to increase by 2,974,000 tons from 1982 to 1987; thus it is projected that 30 percent of this increased production would require about 776,000 additional tons of secondary fiber, relative to 1981 levels.

For free sheet papers, because the economic analysis was inconclusive, it is assumed that additions to production capacity will continue to use the same mix of fiber inputs as projected for the period 1977–1981, or 7 percent secondary fiber. Production of sheet is projected to increase by 2,082,000 tons between 1982 and 1987; this increase would require an additional 146,000 tons of secondary fiber.

The total increase in secondary fiber use in printing and writing papers should therefore be 922,000 tons from 1982 to 1987, for a total use of 1,952,000 tons in 1987. This level of secondary fiber use would therefore represent 11 percent of the production of printing and writing papers.

By forecasting supply, by waste paper grade, to 1987 it was determined that a supply deficit will likely exist in the target year. This will affect the printing and writing sector, which can use only pulp substitute and high grade de-inking. Hence the projection of secondary fiber use was revised to reflect the anticipated waste paper supply constraints. As a result, the final target has been set at 6 percent.

The proposed target for printing and writing papers was 6 percent. During the comment period several parties challenged the proposed target, since it

reflected a percentage reduction in secondary fiber use. It was suggested that the target for printing and writing papers should be increased to as much as 100 percent. DOE notes that, without the projected supply deficit, 11 percent recovered materials use would be feasible. However, on the basis of additional data regarding waste paper supply, DOE has revised the target for printing and writing papers to 6 percent, as detailed in the support document.

Packaging and Industrial Converting Papers. Packaging and industrial converting papers include a wide variety of products made from bleached or unbleached kraft pulp containing more that 50 percent virgin fiber, or from special pulp furnishes. Products in this grade include grocery sacks, merchandise bags, wrapping papers, shipping sacks, multiwall bags, gift wraps, packing tapes, saturating paper used in the manufacture of mica sheets and other laminates, tube paper used in the manufacture of electric fuses, and glassine, greaseproof, and vegetable parchment papers. Secondary fiber content ranges from 0 to 100 percent.

In most applications of these products, functional requirements preclude substitution of other paper products. However, the use of plastic for packaging has increased tremendously over the last 10 years. Consequently, this segment of the paper industry has recently experienced small growth (0.48 percent annually), and no significant growth is expected in the future. Capacity additions of 29,000 tons have been announced for the period 1977–1981, indicating an annual growth rate of 0.1 percent. Because of this low growth rate, this paper grade offers little opportunity for increased use of secondary fiber, despite its technical feasibility.

The use of secondary fiber in packaging and industrial converting papers is limited by the strength requirements of the products. Bag and sack paper accounts for about 65 percent of the production of this grade. Made of bleached or unbleached kraft pulp, it is used for applications such as grocery sacks and shipping sacks, which require high strength-to-weight ratios. For a given basis weight, virgin-fiber-based products are stronger than those made from secondary fiber. Using large amounts of secondary fiber would require an increase in the basis weight of the product, with a consequent increase in freight costs for the consumer. To avoid increased freight costs, consumers generally prefer bag and sack paper with a low basis weight; hence, very little secondary fiber is used in bag and sack paper.

According to one industry source, one of the products in this grade, merchandise bags, has generally lower strength requirements; use of secondary fiber in these bags could be increased. However, plastic products have been rapidly replacing paper for use in merchandise bags, and hence this product offers little opportunity for increased use of secondary fiber. Significant amounts of secondary fiber are used in some other products in this grade, but these products account for a small fraction of the total production of the grade.

Within the limits imposed by technical feasibility, the use of secondary fiber in the production of packaging and converting papers can usually be increased only by additions to capacity. Because a paper mill is designed to use a specific fiber furnish, increasing the use of secondary fiber in existing capacity would necessitate idling virgin pulping capacity or using virgin pulp elsewhere. This would generally not be economically attractive. Significant opportunities for increasing the use of secondary fiber therefore are available only with additions to capacity.

The growth of capacity and production between 1978 and 1987 is expected to be very small, however, averaging about 0.6 percent per year. As a result, use of secondary fiber as a percentage of total production is not expected to increase from the current level of 4 percent.

To estimate the 1987 use of secondary fiber in manufacturing packaging and industrial converting papers, DOE projected 1987 production as 5,780,000 tons, based on available information. This increase in production is expected to increase the use of secondary fiber from 218,000 tons in 1977 to 231,000 tons in 1987, or 4 percent of 1987 production of packaging and industrial converting papers.

Unbleached Kraft Paperboard. Unbleached kraft paperboard is defined by the American Paper Institute (API) as any paperboard made from a furnish containing at least 80 percent virgin wood pulp, using the kraft sulfate process.

In 1977, unbleached kraft linerboard accounted for 13,586,000 tons, or 92 percent, of the capacity for unbleached kraft paperboard. Analysis of this paper grade therefore focuses on unbleached kraft linerboard; secondary fiber use is projected for linerboard and extended to the entire paper grade.

Linerboard is the paperboard used for the inner and outer facings of corrugated containers; the fluted material between the two linerboard facings is called corrugating medium. Linerboard is made from unbleached kraft pulp, which may be supplemented with waste paper. (Linerboard can also be made from two other grades of paperboard. API has defined these other types of linerboard as: solid bleached linerboard, made from a furnish that contains at least 80 percent virgin bleached chemical wood pulp; and recycled linerboard, made from a furnish that contains less than 80 percent virgin kraft wood pulp. In practice, recycled linerboard is made almost entirely from secondary fiber.

Kraft linerboard competes with recycled linerboard in some, but not all, market segments; hence, in projecting production and secondary fiber use in unbleached kraft linerboard, DOE analyzed the comparative economics of producing both recycled and unbleached kraft linerboard in order to develop potential shifts in market share for each. The projection of secondary fiber use developed in this section on kraft linerboard does not, however, include the secondary fiber used in recycled linerboard. It applies only to the unbleached kraft linerboard grade.

Unbleached kraft linerboard is produced in four of the nation's eight paper-producing regions. About 82 percent of capacity is located in the three southern regions; the remainder is located in the West.

Some kraft linerboard is made from 100 percent virgin fiber. Other kraft linerboard mills use secondary fiber, e.g., clippings from container plants as a small fraction of their total fiber furnish. In 1977, about 418,000 to 578,000 tons of secondary fiber (some 3 to 4 percent of kraft linerboard production) were used in manufacturing unbleached kraft linerboard.

Since some linerboard (i.e., recycled) is currently made from 100 percent secondary fiber, it is clear that no technical barriers limit the use of secondary fiber in linerboard production. Linerboard must provide the burst, tensile, and tear strength required for a corrugated box. Rail Rule 41, an Interstate Commerce Commission regulation that applies to containers for interstate shipping, specifies the burst strength required of linerboard, and the product is consequently quite standardized.

The use of secondary fiber in unbleached kraft linerboard varies from 0 to 20 percent. Some mills use as much as 25 percent secondary fiber but, according to the industry's definition, this product is not termed unbleached kraft linerboard. According to the information obtained by DOE,

linerboard is not made from a fiber furnish consisting of between 30 and 90 percent secondary fiber. Industry experience has shown that the use of 20 percent clean secondary fiber in kraft linerboard manufacture does not significantly deteriorate the strength of the product or the performance of the board machine.

For additions to existing unbleached kraft linerboard capacity, the ROI's for 100 percent virgin fiber and for 20 percent secondary fiber are too close to justify any conclusion about the preferred fiber input. Based on announced capacity expansions, however, this segment of the paper industry will significantly increase its use of secondary fiber. To project 1987 use of secondary fiber, DOE has assumed that increases in the use of secondary fiber projected for the period 1977–1981, based on capacity additions already announced, would continue at the same rate through 1987.

Between 1977 and 1987, annual production of unbleached kraft paperboard should increase by 4,729,000 tons. API has already announced 1,687,000 tons of additional capacity which will come on stream by 1981. These additions to capacity should increase use of secondary fiber by 348,000 tons over 1977 levels. If this trend continues from 1982 to 1987, the use of secondary fiber should increase by an additional 952,000 tons; thus, the total increase in use of secondary fiber from 1977 to 1987 should be 1,300,000 tons. Adding this incremental use of secondary fiber to 1977 use (578,000 tons), the maximum economical use of secondary fiber is projected to be 1,878,000 tons in 1987. When compared to projected 1987 production of 18,380,000 tons, this secondary fiber use implies a utilization rate of 10 percent, a significant increase over the 1977 utilization rate of 4 percent for unbleached kraft paperboard.

The target initially proposed for unbleached kraft paperboard was 19 percent. The final target reflects DOE's use of more recent data on the capital costs and energy costs for this sector, which were applied in the economic analyses. Several commenters had suggested that the costs used to support the proposed target were not representative. The final target also reflects a revised projection of the 1987 supply of used corrugated containers, based on additional data provided to DOE.

Other comments stated that the use of 20 percent secondary fiber would reduce the strength of unbleached kraft paperboard and would require additional refining and use of additives in board manufacturing. However, industry experience supports DOE's conclusion that use of 20 percent secondary fiber in manufacturing unbleached kraft paperboard need not affect its strength, if appropriate actions are taken during production. The additional operating costs involved have been taken into account in the economic analysis.

In response to comments that the proposed target for unbleached kraft paperboard would put other segments of the paper industry at a disadvantage with respect to supply of secondary fiber, DOE has established the final targets such that the projected supply of secondary fiber meets or exceeds the requirements of all segments of the industry.

Semichemical Paperboard. Semichemical paperboard used as corrugating medium is made from at least 75 percent virgin wood pulp that is produced predominantly by a semichemical process.

Since recycled paperboard, which is also used as a corrugating medium, is currently made from as much as 100 percent secondary fiber, it is clear that there are no technical barriers limiting the use of secondary fiber in the production of corrugating medium. Corrugating medium must provide the rigidity for the crush resistance required for a corrugated box. Both semichemical and recycled medium provide adequate crush resistance; hence, the two grades are often used interchangeably.

The current use of secondary fiber in semichemical paperboard averages about 26 percent of production. Because of production yields, this 26 percent secondary fiber input results in a product containing about 25 percent secondary fiber. Some manufacturers occasionally report medium containing as much as 38 percent secondary fiber as semichemical medium. Despite this discrepancy in reporting, DOE's analysis has maintained the categories of semichemical and recycled paperboard as defined by the paper industry. According to these definitions, no more than 25 percent secondary fiber may be used in manufacturing semichemical paperboard.

Most capacity additions are being made by expanding existing plants. Because the economic analysis of such expansions is inconclusive, DOE's projections with respect to corrugating medium production are based on an existing study of the industry. 1987 production of semichemical paperboard is projected to be 5,580,000 tons.

DOE's analysis of the economics of semichemical paperboard production for two mixes of fiber inputs (100 percent virgin fiber and 75 percent virgin fiber) was inconclusive. Industry representatives have indicted, however, that semichemical paperboard manufacturers will continue to use 25 to 26 percent secondary fiber, the maximum proportion that can be used according to the definition of the product. Given 26 percent use of secondary fiber and projected 1987 production levels, use of secondary fiber in semichemical medium should increase to 1,457,000 tons by 1987, an increase of 344,000 tons.

The target of 26 percent for semichemical medium was questioned during the comment period, and the industry's current practice was described as producing semichemical paperboard with as much as 38 percent secondary fiber. According to industry sources, however, semichemical paperboard is defined as corrugating medium containing no more than 25 percent secondary fiber; all other corrugating medium is classified as recycled. Data on use of secondary fiber are reported according to these categories. DOE has determined, after further investigation, that the paper industry, does not produce semichemical paperboard with 38 percent secondary fiber; rather, it occasionally reports recycled paperboard containing 38 percent secondary fiber as semichemical paperboard. In establishing the targets, DOE has decided to maintain the categories of semichemical and recycled paperboard, as defined by the paper industry.

In response to comments about DOE's conclusion that production capacity for semichemical paperboard would grow four times a quickly as that for recycled paperboard (the economic analysis shows their returns on investment to be nearly equal), the final targets reflect additional economic data and shows that both types of corrugating medium will grow at nearly the same rate.

Solid Bleached Paperboard. Solid bleached paperboard is a high grade of paperboard that is used for boxes and other functional applications requiring a strong, lightweight paperboard with an aesthetically pleasing appearance.

By definition, solid bleached paperboard is manufactured from more than 80 percent virgin fiber. Almost 40 percent of solid bleached paperboard production is used in manufacturing milk cartons and food-service packaging for moist, liquid, and oily foods. The U.S. Public Health Service's fluid milk model ordinance mandates that milk cartons be made from completely virgin fiber, and buyers of packaging apply this requirement to most paperboard packaging for moist, liquid, and oily

foods. Therefore, waste paper is not used in manufacturing bleached paperboard. As a result, the recovered materials target for the manufacturer of solid bleached paperboard is 0 percent.

Regarding the target for solid bleached paperboard, several commenters questioned DOE's conclusion that no secondary fiber will be used in manufacturing solid bleached paperboard. Their comments suggested that new products could be developed which could use some amounts of secondary fiber. DOE believes, however, that the industry's practice of using very small amounts of secondary fiber in manufacturing solid bleached paperboard cannot be substantially altered by 1987, due to circumstances indicated above.

Recycled Paperboard. Recycled paperboard includes the following categories of products: Folding boxboard; medium; gypsum linerboard; tube, can, and drum stock; linerboard; set-up boxboard; chip and fillerboard; and other recycled paperboard.

All recycled paperboard products can be manufactured from 100 percent secondary fiber. There are no technical barriers to the use of secondary fiber in this paper grade. In practice, all recycled products except corrugating medium are manufactured from 100 percent secondary fiber. Recycled medium can also be manufactured from 100 percent secondary fiber. The average use of secondary fiber in recycled medium, however, is 75 percent of production. (The paper industry classifies corrugating medium with less than 25 percent secondary fiber as semichemical.)

According to linerboard manufacturers, consumers generally prefer kraft linerboard to recycled linerboard because it is stronger than recycled linerboard and has superior printability. Consequently, the share of the linerboard market held by recycled linerboard has decreased over the last 10 years. When the total supply of linerboard exceeds demand, recycled linerboard tends to sell at a slight discount ($5 to $7 per ton), because of the consumer's preference for kraft linerboard.

Economic analyses indicate that, for new plants, 100 percent secondary fiber is the economically preferable input, provided there is an adequate supply of old corrugated containers available within an economic distance of the plant. Hence, the most economically attractive additions to linerboard capacity would be recycled linerboard plants. However, recycled linerboard does not compete with unbleached kraft linerboard in all segments of the market, because recycled linerboard has less strength and printability than unbleached kraft linerboard. For this reason, recycled linerboard production is expected to grow at a lower rate, from 1977 to 1987, than unbleached kraft linerboard.

To calculate the absolute aggregated use of secondary fiber in manufacturing recycled paperboard, projected 1987 production and secondary fiber use for all of the recycled paperboard products have been summed. Projected 1987 production of 8,205,000 tons of recycled paperboard will consume 8,854,000 tons of secondary fiber. These figures imply an aggregate secondary fiber utilization rate of 108 percent for recycled paperboard, which is about the same as the 1977 utilization rate. Even though use of secondary fiber per ton of output will not change, the absolute amount of secondary fiber used will increase, from 7,930,000 tons in 1977 to 8,854,000 tons in 1987, because of the increased production of recycled paperboard. The target is greater than 100 percent because most recycled paperboard products are manufactured from input which is totally comprised of recovered materials, and there are materials losses during the production process.

In the comments on recycled paperboard, DOE was urged to state targets in terms of absolute tonnage of secondary fiber used rather than in terms of secondary fiber as a percentage of production. However, the actual tonnage of secondary fiber that the industry will use for any grade of paper depends on product output, which in turn depends on a range of economic variables. DOE therefore feels that it is generally more appropriate to set targets as a percentage of production rather than as absolute tonnage, and desires that all targets be stated in similar terms. The final target for use of secondary fiber in recycled paperboard manufacture has therefore been established as 108 percent of the production of recycled paperboard.

Combined Paperboard Target. As noted above, in determining final targets, the paperboard segment of the industry was divided into its four components. Such treatment addresses separately the types of paperboard which are manufatured primarily from virgin materials (i.e., unbleached kraft, semichemical, and solid bleached paperboard) and that manufactured primarily from recovered materials (i.e., recycled paperboard). Such treatment also identifies the amounts of recovered materials used in 1977, and the amounts which can be used in 1987, for each type of paperboard, relative to the maximum or minimum amounts embodied in the definition of each type.

Although this type of analysis may be more meaningful in terms of a particular paperboard type, it does not address directly the aggregate use of recovered materials by the paperboard industry. Accordingly, DOE has developed, for information purposes, such an aggregated recovered materials utilization target for paperboard. While additions to capacity for solid bleached paperboard offer no opportunities for increased use of recovered materials, additions for other types of paperboard do present such opportunities. The aggregate target for paperboard thus depends on the relative share of the paperboard market accounted for by each type.

Considering, among other things, the supply of old corrugated containers and the limited competition among the types of paperboard, DOE has projected production of each type through 1987 and determined for information purposes, a combined 1987 recovered materials utilization target for the entire paperboard industry. The combined paperboard target is 34 percent.

Construction Paper. Construction paper products, which are used primarily by the building industry, include sheathing paper; felts used for roofing, floor coverings, automobiles, sound deadening, industrial applications, pipe coverings, refrigerators, etc.; asbestos and asbestos-filled paper; and flexible wood-fiber insulation.

With the exception of asbestos and asbestos-filled papers, construction paper products are currently made with secondary fiber, primarily mixed waste papers, old corrugated, and old newsprint. According to industry sources, 1977 use of secondary fiber in manufacturing construction paper was about 55 percent, or 982,000 tons. Because roofing felts account for 86 percent of construction paper production, the analysis focused on roofing felts; the secondary fiber use for roofing felts has then been extended to the entire paper grade.

Because of product requirements, manufacturers of roofing felts use a maximum of approximately 55 percent secondary fiber. Tensile strength and absorbency are key requirements in roofing felts, which are treated with asphalt. Using a medium containing more than 55 percent secondary fiber would reduce both tensile strength and absorbency to unacceptable levels. Fifty-five percent was therefore established as the 1987 secondary fiber utilization rate for construction paper. Because increased use of secondary

fiber, as a percentage of production, in this grade is unlikely due to technical considerations, an analysis of the economic practicality of using secondary fiber is unnecessary.

To project 1987 use of secondary fiber in construction-paper manufacturing, 1987 production of construction paper was projected. The result was 2,156,000 tons. Given 55 percent secondary fiber use in relation to production, the use of secondary fiber in this grade is projected to be 1,186,000 tons in 1987.

DOE's conclusion, that using more than 55 percent secondary fiber in manufacturing roofing felts would reduce strength and absorption to unacceptable levels, was questioned during the comment period. DOE notes that this conclusion is based on information obtained during consultation on the targets and no information has been provided to DOE which would justify any modification.

Insulating and Hard Pressed Board. Insulating and hard pressed board are used primarily by the building industry. Insulating board is a homogeneous wood-fiber panel. Low density, semi-rigid insulating board is used as ceiling tile and acoustical tile. High density, rigid insulating board is used for applications such as exterior sheathing and interior paneling, and as a base for plaster or siding. Hard pressed board, or hardboard, is made from long fiber mechanical pulp, obtained primarily from wood residues. Hardboard is dense (40–90 lb/cu ft) and is used for such applications as cabinet backing and wall paneling.

Insulating and hard pressed board products are not produced on a conventional cylinder board machine and do not in any way resemble paper products. They are generally not made by the manufacturers of paper and paperboard. Waste paper is not used in manufacturing hard pressed board, which is usually made from wood residues or waste wood.

To use waste paper in manufacturing hard pressed board, it would be necessary to develop production technology that could provide the density and strong bonding required for hardboard. Such development is unlikely in the near future, because waste wood is a less expensive raw material than secondary fiber.

Some waste paper is used in manufacturing insulating board; its use is not expected to increase, however, since production of insulating board is not projected to increase. In 1977, about 815,000 tons of secondary fiber were used in the manufacture of insulating board. Because production of insulating board is not expected to increase, the amount of secondary fiber used in manufacturing insulating and hard pressed board is expected to remain constant at 815,000 tons through 1987.

The total production of insulating and hard pressed board is expected to increase from 3,682,000 tons in 1977 to 4,670,000 tons in 1987. Since the use of secondary fiber is expected to remain at 815,000 tons, all devoted to insulating board, the secondary fiber utilization rate for insulating and hard pressed board combined is projected to be 17 percent in 1987.

Some comments questioned DOE's assumption that secondary fiber cannot be used in manufacturing hard pressed board. Hard pressed board must be dense and highly bonded. To DOE's knowledge, no current technology can produce board with these qualities from a secondary fiber. Moreover, hard pressed board is made from waste wood, which is less expensive than secondary fiber.

D. Rubber

Numerous documents on recovered rubber were acquired and studied in the process of establishing recovered materials targets for the rubber industry. A bibliography of these documents is presented in the target support document. Analysis of the available data resulted in selection of Standard Industrial Classification (SIC) codes as the most appropriate industry descriptors for target-setting purposes. On the basis of product characteristics, data availability, recognized industry subsectors and other factors, the industry subdivisions indicated below were selected. The 1987 recovered materials target is shown for each subdivision.

		Target (percent)
SIC 3011—Tires and Inner Tubes		5
SIC 3041—Rubber Hoses and Belting.	Industrial Products.	5
SIC 3069—Fabricated Rubber Products.		
SIC 3293—Gaskets, Packing and Sealing Devices.		
SIC 3357—Rubber Wire Insulating.		
SIC 3021—Rubber Footwear		15
SIC 7534—Tire Retreading and Repair shops.		[1] 12

[1] Recovered rubber used in retreads as a percentage of total virgin and recovered rubber used in all tire production.

Because adequate data were not available to generate discrete targets for SIC 3041, SIC 3069, SIC 3293, and SIC 3357, those subsectors were evaluated together under the heading "Industrial Products." Recovered rubber targets are therefore developed for the following four industry subdivisions:

- Tires and Inner Tubes
- Industrial Products
- Rubber Footwear
- Tire Retreading and Repair Shops.

These four subdivisions encompass all portions of the rubber industry which manufacture rubber products. Two other SIC subdivisions, which manufacture rubber as distinct from rubber products, were also considered—SIC 3031, Reclaimed Rubber, and SIC 2822, Synthetic Rubber Production. A target is not established for reclaimed rubber production because that industry uses all scrap in producing raw materials (recovered rubber) for use by industries for which targets have been established. To set a target for SIC 3031 would therefore result in double-counting. In the case of SIC 2822, there is no opportunity to use recovered rubber as a raw material and the product is, for all intents and purposes, a virgin material which could potentially be displaced by the increased use of recovered rubber in the manufacturing of products.

Analysis of the various sources of recovered rubber, and development of rubber material balances (i.e., a disaggregated quantification of the flow of rubber polymer into and out of the industry) for the overall industry and the various subdivisions, were critical to determining the potential for recovered rubber utilization. These analyses are contained in the target support document.

The types of rubber scrap from which rubber polymer may be recovered include "obsolete scrap" (recoverable materials discarded after end use); "prompt industrial scrap" (recoverable materials generated by an industrial process and used as input to a manufacturing operation other than the process that generated it); and "self-generated scrap" (recoverable materials generated by a manufacturing operation and used as input to the same manufacturing operation). Analysis of the literature indicated that there were no available data which indicate that prompt industrial scrap or self-generated scrap is utilized by rubber products manufacturers. However, the initial reports on recovered materials (DOE Form CS–153), submitted by rubber products manufacturers to the Department of Energy, indicate that there is some self-generated and prompt industrial scrap being used at present by the rubber industry. From the information provided on the CS–153's, tire manufacturing is the only industry subdivision which used prompt industrial scrap in 1978. The amount used, however, was only 0.5 percent of the amount of obsolete scrap used.

This level of prompt industrial scrap utilization is too low to have any measurable effect on the targets. Since DOE's methodology utilized in target

generation specifically excludes self-generated scrap from inclusion in the targets, the fact that such scrap is actually used has no impact on the target. Thus, the final recovered rubber utilization targets are based on rubber polymer recovered only from obsolete scrap, as were the proposed targets.

Evaluation of recovered rubber sources indicated that unless a rapid, extensive, and unanticipated growth is exhibited by competing uses for recovered rubber, scrap tires (obsolete scrap) could provide rubber polymer in amounts more than ample to support the recovered rubber targets for 1987. The amount of obsolete scrap in existence, by itself, is therefore not a factor which constrains recovered rubber use to the target levels.

Since the latest available data for most of the industry subdivisions were for 1977, that year is used as the reference case. Analysis of the trends in recovered rubber utilization indicates that reclaimed rubber use has declined significantly in the first half of the 1970's; however, it remained almost constant in 1976 and 1977. Production of retreaded tires, as a percent of new tires, has fluctuated over the last ten years. The utilization of ground crumb rubber (waste rubber ground to small particle size) has increased over the last two years. Tire slitting, an industry which cuts and stamps out new products from the sidewalls and treads of waste tire carcasses, has also grown in recent years.

In assessing technical feasiblity for using recovered rubber, it is clear that the technology exists to process and utilize recovered rubber to replace virgin materials. However, the quality of many products containing recovered rubber often declines as the percentage of recovered rubber utilized increases. This reduction in quality is evident in shorter product life and diminished levels of product performance, reliability, and safety. It is therefore critical to a comprehensive evaluation of realistic technical feasibility that product quality be taken into account. The term technical feasibility is thus defined as that maximum level of recovered rubber which could potentially be included in a given product or mix of products without degrading product quality to unacceptable levels.

Using this definition, the analysis for each industry subdivision resulted in the determination that there are technical limits, determined by product quality and performance requirements, to the levels of recovered rubber which can be used within the rubber products industry. These limits, nevertheless, indicate that more recovered rubber can be used by the industry than was employed during the reference year, 1977. Consequently, increased use of recovered rubber by 1987 is deemed technically feasible for each subdivision for which targets have been established.

In the 1977 Reference Year, the following percentages of natural, synthetic and recovered rubber were utilized by the following three segments of the rubber products industry (tire retreading is addressed separately below):

Industry segment	Natural rubber	Synthetic rubber	Recovered rubber	Total
SIC 3011 Tires etc	29	69	2	100
SIC 3041, SIC 3069, SIC 3292, SIC 3357 Industrial products	14	83	3	100
SIC 3021 Footwear	20	80	0	100
Industry Total*	24	74	2	100

*Does not include tire retreading and repair shops, SIC 7534.

Analysis of available data resulted in the determination that the level of recovered rubber used in *tire and inner tube manufacture* could be increased from 2 percent to approximately 5 percent by 1987. Significantly, the tire manufacturing sector uses nearly two-thirds of the total rubber used. This figure reflects projections of the 1987 tire population in terms of the percentages of each tire category (passenger, truck, etc.) and tire type (radial, bias) in that population, average 1987 tire weights for each category, average 1987 tire rubber polymer content, and the maximum amount of recovered rubber which is technically feasible for incorporation into each tire type and category.

The technically feasible upper limit to recovered rubber use in tire and inner tube manufacture equates with that amount, as defined after discussions with a number of technical experts from the industry, which could be incorporated into a given type/category while assuring that product quality, in terms of safety, durability and performance, would be maintained within the range exhibited by corresponding products in 1977. It should be noted that tire manufacturing industry representatives have stated in their initial report to DOE on 1978 recovered rubber use that projected industry trends indicate a decline in reclaimed rubber use through 1983. However, no quantitative data have been provided which would support revising the technically feasible target levels which were proposed.

For the *industrial products* segment of the rubber industry, it was determined that recovered rubber utilization could be increased from the 1977 level of 3 percent to a technically feasible maximum of 5 percent by 1987. Evaluation of the potential for increasing the level of recovered rubber use within these classifications was complicated by the fact that the potential for such use is closely tied to the type of product being made. This industry segment produces a broad spectrum of products, with each factory producing a different product mix. Many of these products must conform to stringent performance specifications and thus can use little or no recovered rubber. On the other hand, products such as car mats and noncritical hoses can use significant amounts of recovered rubber. The technically feasible target for this industry segment is based on plant-specific as well as industry-wide data, and reflects the determination by industry representatives of the increase in recovered rubber utilization which could be accomplished without compromising the quality of any product class.

The technically feasible *footwear* target for 1987 reflects a recovered rubber utilization level of 15 percent of the total rubber polymer used in that industry segment. As less than 0.1 percent of the rubber polymer used in footwear manufacture in 1977 was recovered rubber polymer, nearly all of this target represents an increase over present utilization levels. Again, the target is based primarily on the statements of some industry representatives about the maximum amount of recovered rubber which could be used without reducing product quality below present levels.

The technically feasible recovered materials utilization targets for 1987 are presented in the following table:

Industry segment		Natural rubber	Synthetic rubber	Recovered rubber	Total
SIC 3011	Tires, etc	37	58	5	100
SIC 3041 SIC 3069 SIC 3293 SIC 3357	Industrial Products	13	82	5	100
SIC 3021	Footwear	20	65	15	100
Industry Total*		27	68	5	100

*Does not include tire retreading and repair shops, SIC 7534.

The 1987 projections of the tonnages of natural, synthetic and recovered rubber which reflect these target levels are presented in the target support document, along with detailed descriptions of the assumptions underlying all targets and the methodology used in their generation.

For the tire retreading segment of the rubber industry, the major potential for increase in retreaded tire use exists in the passenger tire category. Currently, nearly all worn truck and bus tires are examined, and about 80 percent are retreaded. It is generally agreed that not much can be done to improve the retreadability rate for these tires. However, passenger retread production is presently operating well below maximum capacity. The 1977 production level of passenger retreads was 33 million. By increasing the current production rate to 90 percent of retread plant capacity, and concomitantly increasing the retreadability rate to its potential maximum level, the technically feasible limit for passenger retread production could be increased to 105 million in 1987. When added to the projected 1987 levels of truck and bus retread production, the maximum feasible retread limit for 1987 becomes 132.2 million.

After determination of technical limits, analyses were conducted to determine whether the technically feasible levels of recovered rubber use would be affected by economic constraints. The conclusion is that for the manufacture of tires, industrial products and footwear, the technical limits defined above are economically feasible. It should be noted that two rubber products manufacturing companies, in reporting to the Department of Energy on their use of recovered rubber in 1978, have stated that economic considerations would prevent the use of reclaimed rubber in their products even if such use were technically feasible. Capital and operating costs are qualitatively indicated as the primary underlying rationale for this statement. However, no quantitative data supporting this contention has been provided. In the absence of such quantitative data, no firm basis exists for revising the technically achievable industry-wide targets presented above.

In conducting the economic analyses, factors such as the costs of collecting, transporting and processing recovered rubber were considered. Various assumptions were made with respect to each industry analyzed. These assumptions are detailed in the target support document. It is noted in that document that rubber product manufacturers apparently often prefer higher cost synthetic rubber polymer to recovered rubber, even within the technically feasible limits defined by the analysis. Possible explanations have been explored. For example, regardless of the cost advantage to using larger amounts of recovered rubber, an individual tire manufacturer is unlikely to risk making any changes in the product that might conceivably lower its performance qualities, due to the highly competitive nature of the national and international market. While such considerations fall within the realm of economic feasibility determination, data are not available which can document in a quantitative manner the market impacts of decisions to use more recovered rubber. Therefore, the technically feasible targets for these industries were deemed to be economically feasible as well. Institutional considerations, such as the Uniform Tire Grading Program, were also explored. Such factors could affect the proclivity of tire manufacturers to use recovered materials; however, there is again no concrete data to support a lower target value.

Unlike the three industry segments discussed above, in the case of *tire retreading*, information analyzed results in the conclusion that economic and institutional factors are the primary constraints to the increased use of retreaded passenger tires. Specifically, the major economic factors include the excessively high transportation costs associated with the collection of discarded tire carcasses, and the disposal costs of the unretreadable casings. Generally, small retailers and those in more remote areas are necessarily bypassed by the retread industry, even though their inventories of scrap tires are expected to contain about 35 percent retreadable casings. In order to recoup costs involved in the collection of these tires, the price that could be demanded for the finished product would have to be raised above its competitive level. The incentives for more thorough scrap tire collection and inspection are therefore negated by the relationship of transportation costs to finished product value.

Based on current information, it has been estimated that about 60 percent of the scrap passenger tires potentially retreadable can be economically inspected for retreading. If a policy promoting tire retreading were adopted, then it could become economically feasible to both inspect and retread a higher percentage of scrap tires.

The primary institutional factors constraining increased use of retreads are the negative consumer opinions regarding retreaded tires. Misconceptions which many consumers have regarding the desirability of retreads have led, to some extent, to consumer preference for low priced new tires over retreads.

Based on the above, as well as other considerations detailed in the support document, the retreading target for 1987 is projected to be 12.1 percent, which is an increase from the 1977 level of 8.6 percent. This retreading target is defined differently than the other recovered materials targets. While other targets are stated in terms of recovered material use as a percentage of total material input or total production within an industry subdivision, the retreading target is stated in terms of retreads as a percentage of total annual tire production. It is felt by DOE that this definition more accurately reflects recovered rubber utilization projections in overall tire production. Details and specific terminology are provided in the support document.

Finally, an evaluation of alternative uses for recovered rubber (other than recovery and use within the rubber products industry) was undertaken. It indicated that many uses do exist. Examples of such uses include road

paving and repairing, direct combustion, pyrolysis, artificial fishing reef construction, and athletic field surfacing. However, projections of the expected growth in such uses indicate that, unless an unexpected boom occurs in one or more of these applications, ample scrap rubber will continue to be available to support the 1987 recovered rubber targets.

There are several key areas relative to this evaluation where data are scarce, nonexistent, or contradictory. Unlike some other industries that have been involved in recovered materials utilization research for a number of years, the rubber industry is just beginning to evaluate the ultimate potential for increased recovered rubber utilization. A large portion of the technical data necessary to make such an evaluation has not been developed. Most rubber recovery efforts are still in the experimental stages and little information is available concerning the capabilities for recovery and use of waste rubber; however, new developments could change rubber recovery utilization prospects for the future. For example, a critical uncertainty relates to the performance characteristics of products manufactured with varying amounts of recovered rubber. Quantitative test results which address the relationship between product quality and recovered materials content are not available. This lack of quantitative information on rubber product degradation, as a function of the amount of recovered rubber included, represents a critical information gap which must be filled. Further efforts by industry, government, and trade organizations seem appropriate to perform the research necessary to establish soundly-based recovered rubber performance standards and to increase data bases. The results of programs to identify quality, performance, appearance, and safety factors could significantly influence the target levels for the recovery and reuse of waste rubber.

With respect to recovered materials targets proposed for the rubber industry, comments were provided by two respondents. One respondent is a major manufacturer of tires, as well as an operator of tire recapping facilities. This manufacturer stated a belief that the program of reporting and setting targets for recovered materials is counterproductive, and that meeting the targets proposed for the industry would have negative societal impacts. Its basic argument is that any increase in the amount of reclaimed rubber used in producing tires will result in unacceptable decreases in tire performance, safety characteristics and other standards. It was stated, for example, that use of 5 percent reclaim in premium passenger and truck tires will result in excessive reduction in tread wear, thus reducing service life and defeating the purposes of recycling. Similar arguments were advanced with respect to a number of tire types. It was also stated that a quality reduction due to use of reclaim would make domestic tire manufacturers less competitive with foreign manufacturers, jeopardize compliance with Department of Transportation requirements and increase fuel consumption. It was suggested by this respondent that DOE should concentrate on improving the retreadability of original tire carcasses. DOE believes this commenter may express the concerns of many producers and consumers about the quality of products using recovered rubber.

The second commenter on the proposed rubber industry targets expressed agreement with DOE's conclusions, stating its belief that the levels proposed are technologically feasible.

In establishing the proposed targets for the rubber industry, DOE pointed out that excessively increasing the use of recovered rubber generally has an adverse impact on product quality. In a product such as tires, the extent of this impact is critical, particularly when safety considerations are involved. Nevertheless, as pointed out by DOE in its supporting documentation of June 8, 1979, the relationships among recovered rubber use and important product characteristics have not been sufficiently quantified. DOE feels, however, that taking steps to delineate such relationships should precede other actions to increase use of recovered rubber as a replacement for virgin materials in rubber products. DOE also believes that the energy ramifications of using waste rubber for various purposes should be investigated. Those actions which would increase uses which are energy-conservative and do not adversely affect product quality should be pursued.

While one of the comments received expressed serious concern about product quality, no specific information was provided which would enable DOE to better quantify the impact of recovered rubber use on product performance. Since there seems to be general agreement that this is the constraining influence on recovered materials use, DOE has no basis at this time for concluding that rubber industry target levels other than those proposed are more appropriate. Therefore, the proposed targets are adopted.

E. Metals and Metal Products

Materials recovery targets are established for five major subdivisions of the metals and metal products industry. These subdivisions were selected based on their ability to utilize the metallic recovered materials included in NECPA Section 461. The subdivisions, together with their respective targets and reference year (1976) recovered materials utilization levels, are:

[In percent]

	1987 target	1976 levels
• Ferrous metals	41	38
• Aluminum	35	30
• Copper	50	47
• Zinc	36	33
• Lead	60	51

The targets were developed by determining, from the best available information, the amount of recovererd materials used in the reference year and the maximum feasible increase in the use of such materials by the year 1987. The analysis included technical and economic factors which affect recycling in each subdivision, as well as other special considerations related to recycling but not strictly technological or economic.

Because of the voluntary nature of these targets, the level of utilization of recovered materials will primarily be determined by economics. Thus, a key feature of the approach is the use of econometric modeling techniques to estimate the targets for recovered materials for 1987. The modeling used 1976 as base year. The technical/economic analysis considered such factors as capacity growth, impurity specifications, and other factors that would affect the demand for recoverable materials. On the supply side, the price responsiveness of the supply was evaluated in order to arrive at draft targets for these recoverable materials. The sensitivity of the targets to variations in key variables was also evaluated.

Consideration of technical factors included the identification of technical constraints to recovered materials use. These constraints were dealt with as either process constraints (i.e. process factors that limit recycling), product quality constraints (i.e. industry specifications for materials), or recovered material quality constraints (i.e. chemical and physical properties required of recovered material as input to a process).

Economic considerations were addressed in different levels of detail among the five industry subsectors. Relatively more sophisticated analyses were conducted on the more energy-consumptive sectors. Most of the effort in econometric modeling was focused on the ferrous industry which, as defined in this study, accounts for approximately 83 percent of the energy consumed in SIC 33. Econometric techniques were also used to estimate the supply of recoverable materials in 1987 for aluminum (11 percent of SIC 33 energy) and for copper (3 percent of SIC 33 energy). For the lead and zinc sectors, each of which uses less than 1 percent of the SIC 33 energy, targets were developed using historical data and published forecasts of the future of the industries.

Since the amount of prompt industrial scrap generated is a function of technological factors in the metal-producing and metal-fabricating industries and is totally price inelastic in both the short and long run, the problem of recycling can best be addressed by considering the market for obsolete scrap, which is the output of past production. During any given period, the market clears at some level of scrap delivery and price. This price-quantity combination will be determined primarily by the steepness of the supply and demand curves (i.e., their degree of price responsiveness or elasticity), by the length of the market period being considered, ("short-run" curves may well be different from "long-run" curves), and by exogenous factors such as levels of economic activity that move the two curves around.

Subject areas included under special considerations were the impact of such things as EPA and OSHA regulations on the industry's ability to increase its use of recovered materials.

The primary metals industries (i.e., those that supply metals mainly by extracting them from virgin raw materials or ores) and the secondary metals industries (i.e., those that mainly supply scrap and/or refined metals from scrap) differ from each other in many important respects, although their products are usually perfect substitutes for each other.

The primary industry relies on the exploitation of mineral deposits where a given metal is concentrated as a result of various types of geological activity. A mineral deposit is called an "ore" only if it can be exploited economically. That is, the difference between an ore deposit and a resource is that an ore deposit can be exploited economically under a given set of market conditions, whereas a resource has to wait for different market conditions before it can be exploited. Ore grade (the concentration of metal in the ore) and ore tonnage generally follow a log-normal distribution. Thus, the quality of ore available for exploitation (ore reserves) will increase with rising prices. In the past, the richest deposits have been exploited first and, as the cost of extraction and processing decreased because of advances in technology, lower and lower grade deposits have been exploited. In this century, the reduction in the costs of extraction and processing through technological change has usually kept pace with ore grade degradation, so the real price of many metals has either remained constant or has declined somewhat. Many metallic ore deposits contain valuable by-products such as gold, silver or molybdenum, which increase the economic value of the ore. Alternately, some ore deposits contain associated impurities, which require more complicated processing and decrease the value of the ore. Transportation costs are important in the primary metals industry; plants are usually located near the ore deposits in order to minimize transportation costs for raw materials, or in areas which are nodes in existing transportation networks, or in areas that offer other benefits, such as low-cost energy.

The secondary metal industry is scrap-based and tends to locate near the source of its raw materials, which is typically near large urban centers. On an aggregate level, the raw materials used by the secondary industries can be classified into three groups: home scrap, prompt industrial scrap, and obsolete scrap. Home scrap, also referred to as runaround, is generated internally within a plant, usually because of downstream fabricating operations within the same plant or corporation. Home scrap, obviously compatible in composition, is used within the corporation. Prompt industrial scrap, also referred to as new scrap, generated as a result of manufacturing operations, is sold by the generator to a scrap dealer such as a scrap broker, a scrap collector, or a scrap reprocessor (which could include segments of the primary industry). Thus, home scrap and prompt industrial scrap are generated and used in identical fashion and are differentiated only by the absence or presence of a transaction. The quantity of home scrap generated in a particular industry reflects the technology of the industry, the presence or absence of vertical integration in the industry, and the geographical distribution of the plants belonging to a single corporation. Statistical data on home scrap generation and consumption are available for only a few industries; data on prompt industrial scrap are generally better. The two categories are not clear and distinct, however. Essentially all the home and prompt industrial scrap is utilized directly. The supply of this scrap depends on the overall level of industrial activity in the manufacturing sector that generates the scrap, and it is quite price inelastic. Improvements in manufacturing technology have generally tended to reduce the availability of such scrap. Also, it is important to note that even more energy is saved when less home and prompt industrial scrap is generated than when this scrap is recycled.

The third category of scrap, recovered from materials that have reached the end of their useful life and/or have been discarded, is obsolete scrap. This category of scrap is distinct from the other two categories in many ways. Because home and prompt industrial scrap are generated in specific locations and in predictable quantities, they have been reliable sources of scrap to the scrap dealers/collectors, in the same fashion that ore deposits are a reliable source of raw materials to the primary industry. This is not the case with obsolete scrap, which is also referred to as old scrap.

The generation of obsolete scrap is usually very diffuse. It is often collected as a part of industrial or municipal waste collection operations. Whether this obsolete scrap is recycled or is lost to a landfill/waste dump depends a great deal on the mode of collection (e.g., source segregation vs. a single collection of mixed wastes), the prevailing economic conditions in the scrap market, and the existing infrastructure for handling scrap. This infrastructure is composed of scrap preprocessors, and upgraders, who can be distinct and separate from those who melt the scrap. Because obsolete scrap is traded, it is often mixed with prompt industrial scrap at the preprocessing stage, and available statistics do not always distinguish between the two categories. The supply of obsolete scrap is somewhat more price elastic than for the other two categories. Besides source segregation, the technology for waste processing, transportation costs, and alternative disposal costs (e.g., landfill costs) are all important factors in obsolete scrap supply.

Because of the diversity of the industry sectors, the differences in the quality of data available among the industries, and other factors, the target development procedure for each sector is unique and will be discussed

separately as part of this statement of basis and justification.

Ferrous. In developing a single target for the ferrous sector, the sector was further subdivided into the following:

- Iron and Steel
- Ferrous Foundries
- Ferroalloys

The sources of ferrous scrap which can be utilized by each of the three ferrous groups were identified. Ferrous scrap, mill scale, dust and sludge, and slag were considered recoverable in the manufacture of iron and steel. Scrap steel in the form of carbon steel, stainless steel, other alloys, and cast iron (including that from the ferrous fraction of municipal solid waste) was determined to be the only potential source for ferrous foundry recovery. Dusts and sludges are not expected to be recyclable by foundries for their ferrous content by 1987, due primarily to their low iron content and the presence of impurities. Neither cupola slag nor electric furnace slag was determined to be a potential source of iron units for foundries by 1987 because of technical and economic factors. (It should be noted, however, that part of this slag is recovered as ballast for road construction.) Only purchased ferrous scrap and electric arc furnace slag produced in ferromanganese production were determined to be sources of recovered materials for ferroalloys production through 1987.

Each of the three industry subgroups was analyzed by process, to simplify the analysis since relatively few of the industry unit operations are capable of processing recovered materials. In the case of steel making, recovered materials can enter the production sequence at three points:

- Sinter strand.
- Blast furnace.
- Steelmaking furnace.

The ferrous foundry sector was segregated into two well-defined segments:

- Iron Foundries.
- Steel foundries.

This breakdown was chosen because the steel foundries are virtually 100 percent scrap based, whereas the iron foundries consume moderate amounts of pig iron as well as scrap. Further, the Bureau of Mines publishes scrap data separately for these two sectors.

The ferroalloy sector was divided according to the type of ferroalloy produced—ferrochromium, ferromanganese, silicomanganese, and ferrosilicon.

Next, technical factors related to the ability to use recovered materials were considered. By far, the most significant technical factor in the context of increasing the use of recovered materials is the capability of the Basic Oxygen Furnace (BOF) to utilize scrap. Because the BOF does not rely on external sources of energy, the quantity of scrap it can process is limited by the amount of energy available for melting. In current practice, BOF's are operated with 20–30 percent scrap in the charge. Unlike the open hearth and electric arc furnaces, the BOF uses scrap not only as a source of iron but also as a coolant for controlling process temperatures. Consequently, the proportion of scrap used cannot be arbitrarily changed without adjusting other variables to maintain the thermal balance. Alternate means of increasing scrap use include:

- Reducing heat losses of the process.
- Adding external fuel to the process.
- Raising the temperature of the process reactants.

Of these alternatives, retrofitting for scrap preheating is considered the most practical. However, this slows down production, and its economics depend on the prices of scrap and energy as well as on other, site specific, factors. The extent to which scrap preheating is adopted in the future is thus dependent on the future availability and prices of ferrous scrap and of energy.

Economic factors were then considered in developing the target. Whether the utilization of recovered materials by the ferrous industry can be increased by 1987 depends on the demand and supply dynamics of the ferrous scrap market.

On the demand side, the amount of scrap that can be utilized is largely constrained by the proportion of steelmaking furnace types in the industry. In 1976, the electric furnace accounted for 19 percent of raw steel production, using almost entirely scrap. The BOF accounted for 62 percent of 1976 raw steel output. The normal scrap charge mix in the BOF is 28 percent, with economic penalties usually associated with deviations from this ratio, dependent on plant-specific factors. The open hearth furnace, which accounts for the remaining steel production, is more flexible with regard to the charge mix. The scrap ratio in the charge can be easily changed in response to, for example, scrap price. The open hearth furnaces are rapidly being phased out, however, and being replaced in some cases by BOF's, which have a smaller scrap use potential, and in some cases by electric furnaces which are capable of using 100 percent scrap. So on the demand side the mix of furnace types in existence in the industry in 1987 is a major determinant of the ability of the industry to use recovered materials at that time.

The recovered materials supply consists of prompt industrial scrap generated by current industrial activity and reused almost immediately, and obsolete scrap extracted from discarded ferrous products. The amount of prompt industrial scrap generated is a function of technological factors in the steelmaking and steel consuming industries and is totally price-inelastic in both the short and long run. In principle, scrap price change will have both short-run and long-run effects on obsolete scrap supply. The amount of obsolete scrap used is a function of price. The short-run effect is that higher scrap prices will result in attention to previously uneconomic scrap sources. The long-run effect is, in practice, not significant.

DOE used a model of the ferrous scrap market that incorporates both engineering and economic parameters, in an effort to depict realistically the technological and economic factors that characterize the demand and supply dynamics. The model organizes extensive technical information concerning the market into a flexible framework that can be used to test the economic viability of increased use of recovered materials. A complete description of the model is contained in the target support document.

The information incorporated into the model includes details on the process characteristics of scrap-using and scrap-generating activities, the inventory of obsolete scrap and the price elasticity of obsolete scrap supply.

Several additional factors which are not strictly technical or economic, but which play a part in recovered materials use in the ferrous industry, were considered. These special considerations included:

- Variable use of scrap in BOF's.
- The trend toward continuous casting.
- Scrap substitutes.

With regard to the use of scrap in BOF's the approach taken in this investigation was that, although it is possible to change the BOF scrap demand coefficient, it is not likely that the ratio will change significantly by 1987. Thus, the BOF scrap coefficient has been estimated for 1987 to be identical to the current value.

Continuous casting (i.e., the converting of molten steel directly into billets, blooms, or slabs without the intermediate step of ingot casting) has been projected for target-setting purposes at 25 percent of industry capacity in 1987, approximately double the 1976 level.

Iron oxides (ore, mill scale, etc.) and directly reduced iron (iron coverted from

iron ore without the need for a blast furnace) can be partially substituted for ferrous scrap in steelmaking furnaces. The potential exists for substantial quantitites of ferrous scrap to be displaced by these substitutes, particularly directly reduced iron. Total production of directly reduced iron in the U.S. is not expected to exceed a few million tons by 1987, however. Accordingly, the target analysis includes the consumption of 2 million short tons of directly reduced iron in 1987.

Other key assumptions believed by DOE to be the most likely developments and used in the establishment of the ferrous target include the following:

- Raw steel production and finished steel consumption were projected to grow at a 2 percent annual rate.
- Only five percent of raw steel was assumed to be produced in open hearth furnaces in 1987.
- The decrease in open hearth production after 1976 was apportioned between BOF's and electric furnaces on the basis of hot metal displaced.
- The growth in raw steel production was split equally between BOF's and electric furnaces.
- Scrap exports in 1987 will be 10 million tons.

Based on the assumptions discussed above, the bases of which are outlined in the target support document, and the econometric analysis of the ferrous scrap market, the maximum feasible level of recovered materials use in the ferrous metals industry was determined to be 41 percent in 1987.

Two comments received on the ferrous metals target questioned the assumption that all new steelmaking capacity through 1987 will be divided equally between BOF's and electric arc (EA) furnaces. DOE stated in the target support document for the proposed target that the mix of steelmaking furnaces is a very important variable in determining the 1987 level of iron and steel recycling and that any projection of the mix out to 1987 would be uncertain. Thus, in the target support document the sensitivity of the target to the steelmaking furnace mix is considered. Only two ratios were considered, however, in the proposed support document: 1:1 and 2:1 BOF to EA. The 1:1 ratio was selected for the base case as proposed. DOE still recognizes the uncertainty associated with estimating such a ratio. However, no information was provided DOE during the comment period which would support any alternative to the 1:1 ratio, and that ratio is used for the final targets.

One commenter expressed doubt that the additional electricity needed for electric melting to achieve the proposed target would be available by 1987. Cutbacks in construction of new generation facilities was given as the basis for the doubt. DOE has no reason to believe, at this time, that sufficient generating capacity will not exist in 1987. If for any reason it does not, then the industry mix of new BOF to new EA capacity may not be 1:1 as projected.

Two commenters questioned the validity of the assumption that the steel industry growth rate between 1976 and 1987 will be two percent per year and stated that to the extent that the growth rate is less than two percent there will be much less opportunity to increase the use of scrap. DOE recognizes the importance of the industry growth rate on the target value. The proposed support document included an analysis of a scenario in which the growth rate for finished steel production was 1.6 percent per year. The result of that analysis indicated that the maximum feasible target in that lower growth scenario would be 40.9 percent as compared to 41.3 percent at the two percent growth rate. Both figures round off to 41 percent. Since DOE is aware of no information which would better support a growth rate projection of other than 2 percent, and since the most recent forecast of the Department of Commerce is 2 percent, that growth rate is used in the final target.

Two commenters suggested that DOE study further the energy implications of using increased amounts of scrap in the manufacture of iron and steel. The commenters were particularly concerned with the possibility that the increased use of scrap could result in increased consumption of oil and natural gas while reducing the consumption of coal. DOE believes that the type of fuel saved is a vitally important consideration, along with the quantities saved. DOE has considered the information provided during the comment period, as well as additional information. While the energy impact of the targets is of great concern, it is not felt that the information provided to date warrants modification of the ferrous target. DOE intends to thoroughly investigate the energy relationships associated with increased recovered materials use. The targets established by this rule, however, are believed by DOE to be the maximum feasible based on the best available information, as required by the NECPA.

One commenter stated a belief that the ferrous target as proposed promotes steel production in a manner which results in higher costs than would otherwise be the case, and thus contributes to inflation. DOE reviewed the material provided and found it to be based on certain assumptions which are not well supported. As indicated above, a consideration of the potential inflationary impact was included in the methodology for setting the targets. Underlying the inflationary impact argument is the implication that decisions would be made which are contrary to economic feasibility because of the targets. The targets are considered by DOE to be economically feasible based on current information.

Several commenters believed that sufficient scrap will not be available to meet the proposed target in the ferrous sector without export controls on ferrous scrap. One commenter stated a belief that any program designed to stimulate increased use of scrap will be self-defeating if the U.S. does not limit exports of ferrous scrap. DOE recognizes that exports of scrap impact the price and availability of scrap for domestic markets. The proposed target reflects the assumption that ferrous scrap exports between 1976 and 1987 will not be controlled. Scrap exports were considered as a major factor in the proposed ferrous target. The econometric model supporting the target included scrap exports in determining obsolete scrap supply quantities through 1987. The value used for scrap exports in the target year was ten million tons. This projection is still considered by DOE to represent the best information on the scrap export levels for the target year, and was supported by testimony at the public hearing. The final support document shows the effects of alternative levels of scrap exports on the target. In the long run, scrap exports can alter the process mix in the iron and steel industry as well as the scrap demand coefficients for the steelmaking process and ferrous foundries. These indirect impacts of scrap exports on the long rang structure of the industry were not considered in setting the target; to the extent that they become significant in the future DOE will consider modifying the target.

Three commenters questioned the value used by DOE for the price-elasticity of supply of scrap. One merely stressed the uncertainty of any estimate. Two disagreed with the value used by DOE and cited studies by others which used a value of elasticity different from that used by DOE. The various studies cited in testimony were reviewed by DOE during development of the proposed target and the reasons for rejecting them are clearly stated in the proposed and final target support documents. One study did not

incorporate the price elasticity of supply into the model. Another included no values for scrap inventory. DOE believes that the value used in this target setting effort is the best estimate, for the reasons stated in the target support document. One of the commenters believed the price-elasticity to be incorrect because it failed to consider the impact of foreign demand on the availability of scrap for domestic use. The commenter provided, in support of the position, a recent analysis which claimed to support a finding that the foreign component of demand for U.S. ferrous scrap is a far more powerful determinant of U.S. price levels than domestic demand. The model used by DOE to support the proposed targets considered the total demand for scrap as a single endogenous variable. One component of that demand was based on scrap exports. It is not felt to be necessary to disaggregate the demand variable into the two components of domestic and foreign demand if both are contained in the demand model. The analysis provided by the commenter showed that the relative weight of foreign demand to domestic demand remains virtually unchanged over time, which further supports combined treatment. The same commenter suggested also that, since prompt industrial scrap tends to be priced with obsolete scrap in the market, the impact of exports will be even broader than a change in the price-elasticity of supply of obsolete scrap might indicate.

One commenter criticized the methadology used by DOE to develop the ferrous target because it did not consider future changes in the manner in which steel will be made. In particular, it was recommended that DOE evaluate more closely the potential of scrap preheating and the Q–BOP process to increase the ratio of scrap to the total charge of raw materials in steelmaking.

DOE has conducted further analysis with regard to the potential of scrap preheating and determined that it will not increase the 1987 target. The final support document includes an economic analysis of scrap preheating. DOE has also looked more closely at the Q–BOP process, as suggested and determined that actual operating experience has not confirmed the expectations of the process developers for increased scrap ratios. In fact, the scrap consumption in the Q–BOP has been reported to be one to two percent less than the BOF.

The same commenter suggests that the maximum feasible target for ferrous scrap use must be based on values for recycling ratios of each steelmaking furnace type which are at least as high as any achieved in the past. The use of a 28 percent scrap-to-total-charge ratio in the BOF was specifically questioned. DOE believes the assumption that a certain scrap ratio will be feasible in the future, based solely on the fact that it was feasible at some time in the past, is not consistent with the requirement in Section 374A of the EPCA that DOE consider, in the target setting effort, the economic ability of the industry to increase its use of recovered materials. With regard to use of the 28 percent ratio, DOE recognizes that it is possible to operate BOF's with more than 28 percent scrap and that some BOF's, are, in fact using more than 28 percent scrap. The ability to use more scrap in the BOF is dependent on many variables, including the type of operations which the BOF supports (e.g., ingot or continuous casting). DOE is not convinced that the scrap charge to BOF's can increase significantly by 1987 as the industry moves more toward continuous casting, which requires hotter steel and therefore can tolerate less scrap unless the scrap is preheated (see discussion of scrap preheating above). With respect to energy consumption, continuous casting requires significantly less energy than ingot casting with subsequent billet and slab production.

One commenter criticized DOE for not attempting to reconcile the differences between the two major sources of information on obsolete ferrous scrap supply, one of which was a study commissioned by the commenter. After examining all available information on obsolete scrap supply prior to proposing targets, DOE determined that neither study cited by this commenter was appropriate to this task. The basis for this determination is set forth in both the proposed and final target support documents.

The use of 1976 data was questioned by one commenter who suggested that more recent data was ignored by DOE. In proposing targets, DOE endeavored to use the most recent available information which was complete. If information for a year was not complete with respect to the industry or an industry sector, DOE selected a previous year. Since the comment period, DOE has reviewed the most recent data and found no additional information on which to base a change in the ferrous target.

One commenter believed that the base case ratio of electric arc to BOF's was too high and thus the target based on the increase in electric furnace share of production by 1987 is understated. DOE has reviewed the information on this subject provided by various commenters, and concludes that the base case ratio used by DOE is correct. It should be noted that the reference year used by DOE for this target is 1976, and the ratio has changed since that time. The target, however, relates to the reference year rather than the current year.

Two commenters suggested that the ferrous target be increased to at least 50 percent but provided no information on which to base such an increase. It is clear that such an increase could be forecast only by hypothesizing modifications to conditions which affect industry decisions—modifications which DOE believes are not likely to occur. Such recycling ratios as recommended by the commenters may indeed be technologically feasible. DOE is, however, required to consider the economic ability of the industry to increase its recovered materials use. This issue is addressed in detail under Public Comments, above.

After consideration of all public comment on the target, DOE determined that no additional information had been provided which could justify a modification to the proposed target.

Aluminum. The sources of recovered material identified for the aluminum sector were purchased new scrap and old scrap (i.e., prompt industrial and obsolete). The principal marginal source of recoverable material is old scrap, availability of which could increase between now and 1987. The three major categories of old scrap where an increase is possible are: aluminum recovered via source segregation of beverage cans and other aluminum items; aluminum recovered from municipal solid wastes in resource recovery systems; and mixed scrap recovered from automobile shredding. Aluminum from non-bauxite sources of recovered materials was considered but rejected because the technology for recovering aluminum from these sources is not likely to be commercial by 1987.

The following process subdivisions were considered in deriving the target for aluminum:

- Primary producers.
- Secondary smelters.
- Independent fabricators.
- Aluminum foundries.
- Chemical producers.

Aluminum-based scrap is usually recycled by melting in gas or oil-fired reverberatory furnaces, crucible furnaces, and induction furnaces. There are no process technology constraints concerning the amount of scrap (percentage scrap in charge) that can be melted in each of these furnaces,

although the different types of furnaces do provide different melting capacities.

The recycling furnaces are best suited for melting (as distinct from refining) and adequate scrap preparation is required to minimize contamination of the melt with impurities from the scrap.

Suitable technology is needed to separate aluminum from the non-magnetic fraction of shredded automobiles and from the non-ferrous fraction obtained in the treatment of municipal refuse. Techniques in various stages of development include water elutriation, heavy media separation, eddy current, etc.

The principal refining step in the recycling of aluminum-based scrap is the removal of magnesium by treating the molten metal with chlorine or aluminum. The metal produced from the scrap has to meet a product specification. With the exception of magnesium removal, impurity levels are reduced by dilution with primary aluminum, and other alloying elements are added to attain the desired composition. Even well-segregated aluminum scrap is often contaminated with other metals, many of which can be considered impurities. Stainless steel is particularly troublesome because, unlike common steel, it cannot be separated from scrap magnetically, it is difficult to detect visually and it dissolves in aluminum more readily than common steel. Free zinc is present in some borings, in jar covers, and as die castings. Magnesium, whether free or alloyed, is usually disadvantageous, since the principal alloys produced from scrap are permanent mold and die casting alloys which contain little magnesium (usually less than 0.1 percent). Since about 85 percent of the recoverable material available to a smelter consists of mill products (high in magnesium content) the molten metal contains 0.5–0.8 percent magnesium, and has to be brought back into specification by demagging. Demagging is not required, however, for deoxidizer material (used in the steel industry) since magnesium is not critical.

Non-metallic contaminants in aluminum scrap, such as paint, oil, plastic, insulation, and rubber, are a major source of air pollution. In developing the target the analysis considered supply and demand in both physical and economic terms.

The physical aspect of scrap demand concerns the process limitations on the amount of scrap that can be utilized. In the aluminum industry, unlike steel, there are no relevant physical demand constraints imposed by technology. The economic aspects of scrap demand relate to the price of scrap. The price of scrap is driven to a large extent by demand rather than by supply.

DOE used an aluminum scrap economic model to calculate the aluminum target. The equations and details of the model are provided in the target support document. The model predicts the volume of scrap that will be available for recycling from different sources, based on forecasts for exogenous variables used in the model. The assumptions which DOE feels best project the industry parameters to 1987, and on which the aluminum target is therefore based, include the following:

- 5 percent annual industry growth rate.
- Price of scrap remains constant in real terms (1967 $).
- Can reclamation rate increased to 40 percent.
- Aluminum reclaimed per can decreases 27 percent.
- Aluminum can production increased from 20.1 billion in 1976 to 38.5 billion in 1987.
- In 1987 the U.S. will produce about 85 percent of its primary aluminum demand.
- Aluminum recovery from municipal solid waste in 1987 will be 100 million pounds.
- The aluminum scrap inventory in 1987 will be 43.1 billion pounds.
- Eleven million cans will be scrapped in 1987; 80 percent of these, or 8.8 million vehicles, will be processed adding 334 million pounds of aluminum to scrap supply.
- Scrap exports in 1987 will be 200 million pounds.

Based on the above assumptions, the bases for which are outlined in the target support document, and its use of the model, DOE calculated the maximum feasible level of recovered materials utilization to be 35 percent in 1987 for aluminum.

One commenter on the aluminum target referenced statistics which predict that by 1987 (1) the aluminum industry will double its total production; and (2) secondary aluminum producers will at least double their production. It was charged that DOE failed to consider the estimates and that the resulting target is, therefore, too low. All targets, however, are stated in terms of ratios of recovered materials used to total production. Hence, if both recovered materials use *and* total production double during any interval, the ratio remains unchanged. The target established by DOE for aluminum reflects a substantial increase in recovered materials use relative to total production.

One commenter emphasized the sensitivity of the aluminum target to the amount of aluminum in automobiles, stating that even with large increases in the amount of aluminum in automobiles (as anticipated) substantial increases in recycled aluminum from this source will not take place until some time after 1987. The aluminum target reflects the finding that the use of aluminum in automobiles has been increasing for some time, from about 50 pounds per automobile in 1978. It is projected that 8.8 million vehicles will be scrapped and processed in 1987. The trend will likely continue beyond the target period, but the 1987 target reflects the increases in aluminum use which have already been realized, and does not depend entirely on recovery of aluminum from automobiles yet to be produced.

An error in the recovered materials use figures for aluminum in the reference year was noted by one commenter. DOE has rectified the error.

Copper. Recoverable materials in the copper industry may come from a variety of solid waste, including the following categories of scrap:

- Number 1 wire and heavy copper (99% copper).
- Number 2 wire, mixed light and heavy scrap (92–96 percent copper).
- Brass and bronze scrap (from red brass containing 82.5 percent copper to bronze with 57.5 percent copper).
- Other alloyed copper scrap (e.g., cartridge cases, auto radiators, railroad car boxes).
- Low grade scrap (e.g., armatures from electric motors).

The industry consists of the following four groupings:

- Primary producers (smelters).
- Secondary smelters.
- Brass mills.
- Foundries.

Brass mills are the largest consumers of purchased copper scrap.

With regard to technical constraints to recovered materials use, secondary smelters can be further divided into two categories—those which can smelt and refine and those which are essentially remelters and refiners and have no smelting capability. Those that can smelt and refine are 100 percent scrap based and have practically no process constraints in processing copper scrap. Those without the smelting capability can process only high grade scrap.

Primary smelters can, in principle, melt any grade of scrap. The smelting furnaces are designed, however, for handling finely-powdered concentrates and not heavy, bulky scrap. It is not likely that the furnaces will be altered for the feeding of substantial quantities of heavy scrap in the near term.

Brass mills, because they usually have only melting facilities, purchase clean

and well-sorted scrap and do not recover and low-grade scrap or residues. This is true also for foundries, except that some lower grade scrap with well-known composition may be used.

Using existing econometric models of the copper industry and projected primary refined copper production as detailed in the target support document, DOE developed a target for the copper industry. The increase in the recoverable copper reservoir was calculated using an observable average lag of approximately 20 years between the use of copper in capital equipment and its release through scrapping.

Using the price, production output and recoverable copper reservoir growth projections through 1987, shown in Table 2 below, the maximum feasible copper recovery level was projected to be 50 percent in 1987.

Table 2

Primary Refined Output	21.5%
Scrap Price	17.0%
Recoverable Reservoir	34.0%

With regard to the target for the copper sector, one commenter believes there is a paradox in that the sensitivity analysis of the target shows that, given certain circumstances, there may be no increase in recovery of obsolete copper scrap by 1987. DOE notes that the estimated potential for copper recovery in 1987 is subject to a number of uncertainties. The support document shows that the target is sensitive also to factors which could result in greater use of recovered materials by 1987 than that proposed.

Two commenters questioned the inclusion of mine wastes recovery in the copper target, since mining is not part of the "metals and metal products industry" referred to in the NECPA. DOE believes that, since the targets address the use of recovered materials, it is appropriate to consider recovered materials *used* by the "metals and metal products" industry regardless of whether they were generated by the industry. Substantial amounts of metals are recovered from manufacturing industries other than SIC 33, as well as from sectors of the economy other than the manufacturing sector (e.g., mining, construction). To ignore these sources of recovered materials would, DOE believes, be contrary to the NECPA.

One commenter stated his belief that the recycling ratio given for copper in the reference year was inflated due to the inclusion of self-generated scrap. DOE did not include self-generated scrap in the reference year for any industry.

Zinc. The zinc industry recovers zinc (and zinc oxide) from a broad spectrum of home, prompt industrial, and obsolete scrap. Zinc can also be recovered from steelmaking dusts, although this process is not practiced on any significant scale in this county. As with other metals, obsolete scrap represents a principal marginal source of recoverable material.

The new zinc scraps are almost always recycled at present. For example, the zinc supplier to a galvanizer generally contracts to buy back all zinc-containing residues. The galvanizer residues repurchased under these agreements includes drosses, skimming, ashes, and sal skimmings. Zinc die casters generally do not enter into such contracts, but their scrap is generally recycled as home scrap or sold to dealers for recycle. Some chemical residues and flue dusts are also recycled as sources of recoverable materials. The main new source is electroplating liquors, which will not be reprocessed for their zinc content by any zinc industry subsector before 1987. However, other industry sectors might reprocess these electoplating solutions for their more valuable metal content.

The zinc-containing fractions from municipal incinerators are a category which might make a small contribution before 1987. The other miscellaneous wastes that contain zinc are not included in the target because they are either dissipative uses of zinc or they are not expected to be recovered before 1987. For example, the zinc oxide will not be recovered from rubber products until a process is developed to recover the energy or chemicals from the rubber. Paint pigments are a dissipative use of zinc, and building demolition wastes will not be sorted for metals because of labor costs. The zinc content of old municipal landfills or old mine wastes is not high enough to warrant its processing before 1987.

Looking at the process constraints by class of recoverable material, the following statements can be made:

- The only processes that generally recover zinc products from oxidized zinc materials are the vertical distillation retorts and the chemical and pigment plants. The types of scrap that are generally highly oxidized include the galvanizer's scrap, the chemical residues, and the flue dusts.
- The foundries recover zinc from scrap that has a high metallic zinc content and controlled metallic impurities. They usually process their own home scrap and other new zinc die-cast scrap.
- The secondary distillers process all zinc scrap, but can recover only the metallic zinc content of the scrap. They must sell the residues to other plants for recovery of the zinc values from the oxidized zinc content.

If all smelter capacity capable of processing scrap processed scrap rather than virgin ore, an additional 350,000 short tons of zinc scrap could be processed per year. Most of this additional capacity is in the primary vertical retorts, which could accept more scrap in their charge. The large excess smelting capacity indicates that processing ability, however, is not a major restriction to increased zinc recycling.

Very little recycled zinc is used by the die-cast industry, except for home scrap, because of the tight standards required for the main raw material, a grade of zinc called "specification 49 zinc." This zinc can contain less than 0.001 percent of lead, tin, or cadmium, a degree of purity that is difficult to obtain from recycled zinc. The other applications, such as galvanizing and zinc oxide products, do not have the same stringent requirements. For example, "prime western grade" zinc, with 98.5 percent zinc, the standard grade of zinc needed for galvanizing, can be produced from recovered materials. The presence of zinc oxides in the recoverable materials is also not a major problem, since the vertical distillation retorts can reduce the oxides to metallic zinc.

Econometrics modeling was not used to explicitly evaluate the economics of using recovered zinc. However, economic considerations are implicit in the analysis.

The majority of old zinc scrap comes from the shredding of old automobiles and appliances. The resulting shredded materials are sorted, into a ferrous fraction, a nonferrous fraction, and fluff, by magnetic and air classifiers. The copper and brass are hand picked from the nonferrous fraction, leaving a mixture of aluminum, zinc, and solder. The zinc that is sweated from the remaining mixture and sold as ingot makes up the bulk of the old general zinc scrap. If the aluminum is separated from the zinc and solder by heavy media separation, the zinc and solder go into the old die-cast scrap category.

Automobiles scrapped in 1978 contained about 250,000 short tons of zinc die castings. Because new cars contain less zinc, those scrapped in 1987 will have only 125,000 short tons of zinc. More efficient recovery, however, could still enable meeting a 1987 target of 70,000 short tons per year.

The output of zinc products should not change dramatically from present levels before 1987. By 1976 all of the older, marginal, and more polluting horizontal retort plants had been shut down. Some form of both electrolytic and

pyrometallurgical reduction should survive to 1987.

Increased recovery of zinc will center on old die castings. The recovery rate for old die castings should increase from a 1973–1976 average of 49,600 short tons per year to 70,000 short tons per year by 1987. This increase in recovery, coupled with a decrease in zinc content of automobiles, would raise the proportion of old automobile die castings recovered from 20 percent in 1976 to 64 percent in 1987. The other categories of recoverable materials should remain fairly constant if zinc consumption remains level until 1987. The recovery level for all zinc manufacturing is thus projected to increase from 33 percent of production in 1976 to a maximum feasible level of 36 percent of production in 1987.

Regarding the zinc target, one commenter suggested that the proposed target is too high in view of the drastic reduction in use of zinc die castings by the automobile industry, since die casting is the easiest process in which to use recovered zinc. The proposed target for zinc, however, considered the decreasing quantities of zinc use in automobiles. Automobiles scrapped in 1978 contained 250,000 short tons of zinc die castings. Those scrapped in 1987 will have only 125,000 short tons of zinc. This decrease, however, is expected to be mitigated by more efficient zinc recovery technology, so that the 1987 target of 70,000 short tons can be attained.

Lead. The scrap materials considered for inclusion in target selection are broadly grouped as new scrap, old scrap, slags, and dusts.

The different recoverable materials have historically gone to different types of processing, depending upon the process and constraints. Primary blast furnaces use very little, if any, recoverable materials other than the small quantities of dusts, drosses, and skimmings generated in the plant. Secondary blast furnaces or reverberatory/blast furnace combinations can treat most wastes, including oxides. Kettles can treat a variety of metallic lead materials but cannot handle wastes which require refining.

The blast furnace is the principal process in the primary lead industry that can handle recoverable materials. The blast furnace is an efficient reducer (metallic oxides to metal) and could, therefore, process a wide range of recoverable materials including oxidized materials, dust, drosses, skimmings, etc. It could also be used to melt metallic scrap, although it is not designed for this use. The blast furnace reduces to metal most of the impurities found in the recoverable materials charge. Since the primary industry, for the most part, produces pure lead, these impurities have to be removed from the lead by refining before use.

The blast furnace used by the secondary lead industry has process characteristics similar to those of the blast furnaces used in the primary industry. Reduction of impurities to metal is an advantage in this case, though, because of the difference in product specifications, i.e., alloys rather than pure lead. Unlike the primary blast furnace, the secondary blast furnace is used almost entirely to process recoverable materials. Its ability to reduce to metal other elements in the recoverable materials (notably antimony), along with the lead, is a desirable feature for the secondary industry which produces, for example, antimonial lead from high-antimony recoverable materials. A possible constraint on blast furnaces (both primary and secondary) is that very fine recoverable materials (e.g., dusts) must be agglomerated before use to avoid being blown out of the furnace.

The reverberatory furnace is employed only in the secondary lead industry. This furnace, even with furnace atmosphere control, is essentially a non-reducing process. In the secondary lead industry, reverbs are often used in conjunction with a blast furnace to process recoverable materials that contain both metallic lead and oxides. The recoverable material charge is melted in the reverberatory furnace, producing metallic lead and a slag layer containing any oxidized material (e.g., lead, antimony). The slag layer is reduced in the blast furnace, producing metallic lead (or alloy). Without the blast furnace, the reverb is extremely limited and can only process recoverable materials that contain metallic lead.

The kettle is essentially a melter, and can handle only scrap materials requiring melting only. The kettle is also used for refining operations. Because of heat transfer considerations and because kettle melting/refining is a batch operation, kettle melting is used only on small batches of scrap.

Constraints on the recoverable material are set by the product specifications, the technical limitations of the available equipment, and the chemistry of the process. Normally, it is advantageous to match the feed material as closely as possible to the final product specifications. Thus, battery plates are normally recycled as antimonial lead, type metal is recycled to type, cable to soft lead, etc.

Theoretically, there is no technical limit to the amount of recoverable material a secondary plant can recycle, provided the product specification constraints are overcome.

However, on an industry level, the amount of recoverable material that can be recycled is limited by the availability of scrap materials. Based on historical recovery rates and the types of material under consideration, it is possible to estimate the maximum amount of material that can be recycled under foreseeable economic conditions. This information, along with projected growth rates for the various end uses, and knowledge of the lifetime (i.e., years from production to availability for recycle) allows the calculation of a theoretical maximum of production which is sustainable in the long run by the secondary producers, based on scrap availability.

Econometric modeling was not used to explicitly evaluate the economics of using recovered metals in this industry analysis. However, economic considerations are incorporated in assumptions used in the analysis and in the projection of historic trends.

The target for the lead industry has been estimated based upon the following information and assumptions, the bases for which are outlined in the target support document:

- There will be no significant use of recoverable material in the primary industry by 1987.
- The secondary industry uses recoverable material as 100 percent of its raw material.
- The capacity of the primary industry will remain at its 1976 level. Because of the lead-time requirements for mine/mill/smelter/refinery, no new capacity will come onstream by 1987. The net effect of any additions to capacity at existing smelters will be offset by capacity decreases.
- In the long term, maximum capacity utilization by the primary industry is about 86 percent, or 700,000 short tons of lead annually.
- Secondary capacity can be increased in a relatively short (several years) period of time.
- The changeover to maintenance-free batteries will not adversely affect the secondary industry.
- The demand reduction in chemicals and pigments will not adversely affect the primary industry.
- Total demand for lead will increase by 1987; demand in batteries will increase at 4 percent annually, and in metal products at 1 percent annually.
- Net scrap exports in 1987 will be zero.

Based on this information, the target for the maximum feasible level of recovered material utilization is set at 60 percent for lead.

With regard to the target for the lead sector, one commenter suggested that the target setting task has been reduced to an academic exercise, because proposed environmental regulations for the industry make even the continued existence of the industry uncertain. Obviously, DOE has premised the target for use of recovered lead on the continued existence of both the primary and secondary sectors of the lead industry. As with any assumption on which a target is based, the target may have to be modified if the assumption proves to be inaccurate.

Significant baseline structural changes in the U.S. lead industry may result from decreased demand for lead because of EPA regulations, the changeover from antimonial-lead to calcium-lead maintenance-free batteries, and the economic impact of proposed EPA and OSHA regulations. These could potentially result in many plant closings and a lower rate of utilization of recoverable materials.

Two end-use markets, pigments and chemicals, will probably experience significant demand reductions over the next 5 to 10 years. Chemicals demand will decrease as a result of EPA regulations limiting the amount of TEL (about 99 percent of chemicals) in gasoline. Similarly, the demand for lead oxides in pigments will decrease as a result of various regulations concerning the lead content of paint. Demand reduction in these two end-use sectors will decrease lead demand proportionately. Most of the lead consumed in pigments and chemicals is refined soft lead and has historically come mostly from the primary industry (about two-thirds). Since primary and secondary lead are technical substitutes in most cases, this decrease in demand for soft lead may cause some market reorganization.

Finally, the outcome of proposed EPA air and OSHA air regulations may affect recovered materials utilization in the lead industry. The final economic outcome of these regulations is unknown at this time.

One commenter argued that prompt industrial scrap should not be included in the targets for copper, zinc, and lead since the objective of the industries which produce such scrap is to reduce the generation of this category of scrap.

The same commenter stated that most copper, lead, and zinc companies cannot "in general distinguish between prompt industrial and obsolete scrap." One reason cited by DOE for including prompt industrial scrap in the targets (even though its current use is high and desirable manufacturing efficiency improvements will reduce the amount of prompt industrial scrap available) was the inter-relationships among the various categories of scrap. If, as the commenter stated, one cannot always distinguish prompt industrial from obsolete scrap, then one type cannot, as a practical matter, be neglected in setting targets or reporting progress in recovered materials use.

The same commenter asserted that no significant quantity of these materials that can be economically recovered is not actually being recovered. With regard to copper this same comment was made by two others. The commenters maintain that such scrap is never irrevocably discarded. DOE agrees that such metals always exist for recovery but stresses the dependence of the recovery ratio on the economic situation at the time. The copper target is supported by a projection of the economics through 1987 and is not limited to the current characteristics of the economy. The increase in the recoverable copper reservoir has been projected, as have scrap prices and primary refined copper production, to derive the target. DOE believes the target to reflect the most likely future conditions in the industry.

IV. Procedural Matters

A. Regulatory Review

DOE has determined that this rulemaking is significant, as that is used in Executive Order 12044 "Improving Government Regulations" and amplified in DOE Order 2030 "Procedures for the Development and Analysis of Regulations, Standards, and Guidelines." It is considered significant because it establishes the recovered materials targets, and the criteria and procedures for mandatory reporting on industrial energy efficiency and utilization of recovered materials.

DOE has further determined that the rulemaking is not likely to have a major impact, as defined by Executive Order 12044 and amplified in DOE Order 2030, because it is not likely to impose a gross economic annual cost of $100 million or more and is not likely to have any of the other impacts which are defined as major in DOE Order 2030. Accordingly no regulatory analysis was performed.

As further required by DOE Order 2030, a draft regulatory evaluation plan was prepared for the proposed rulemaking.

B. Consultation With Other Federal Agencies and Major Industries

Pursuant to section 372 of the EPCA(c), in developing the targets for the increased utilization of recovered matrials DOE has consulted with the Administrator of the Environmental Protection Agency and each of the major industries subject to the provisions of section 374A.

In accordance with section 404 of the DOE Act, the Federal Energy Regulatory Commission received a copy of the proposed rules. The Commission has not exercised its discretion to determine that the rule significantly affects any function within its jurisdiction under section 402 (a)(1), (b) and (c) of the DOE Act.

(Energy Policy and Conservation Act (Pub. L. 94–163) as amended by the National Energy Conservation Policy Act (Pub. L. 95–619); Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended; E.O. 11790 (39 FR 238185); The Department of Energy Organization Act (Pub. L. 95–91); E.O. 12009 (42 FR 46267))

In consideration of the foregoing, the Department of Energy establishes Part 445 of Chapter II of Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., February 6, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

Chapter II of Title 10, Code of Federal Regulations, is amended by adding Part 445 as follows:

PART 445—INDUSTRIAL ENERGY CONSERVATION PROGRAM

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Subpart B—Identification of Corporations

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Subpart D—Exemption Criteria and Procedures

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445.36 Filing deadline and address.
445.37 Determination of exempt corporations and adequate reporting programs.
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Subpart E—Voluntary Energy Efficiency Improvement Targets and Voluntary Recovered Materials Utilization Targets

445.41 Purpose and scope.
445.42 Energy efficiency improvement targets.
445.43 Modification of energy efficiency improvement targets.
445.44 Recovered materials utilization targets.
445.45 Modification of recovered materials utilization targets.

Authority: Secs. 5, 7, 13, Pub. L. 93–275, 88 Stat. 97 (15 U.S.C. 764, 766, 772); secs. 371–376, Pub. L. 94–163, 89 Stat. 871 (42 U.S.C. 6341–6346), as amended by Pub. L. 95–619, 92 Stat. 3207; secs. 301, 308; Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7151, 7158); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267).

Subpart A—General Provisions

§ 445.1 Purpose and scope.

This part sets forth the regulations for the Industrial Energy Conservation Program established under Part E of Title III of the Act. It includes criteria and procedures for the identification of reporting corporations, reporting requirements, criteria and procedures for exemption from filing reports directly with DOE, voluntary industrial energy efficiency improvement targets and voluntary recovered materials utilization targets. The purpose of the program is to promote increased energy conservation by American industry and, as it relates to the use of recovered materials, to conserve valuable energy and scarce natural resources.

§ 445.2 Definitions.

For the purpose of this part—

"Act" means the Energy Policy and Conservation Act (Pub. L. 94–163, 80 Stat. 971), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619, 92 Stat. 3207).

"Btu" means British thermal unit.

"Chief executive officer" means, within a corporation or a sponsor, the chief executive officer or other individual who is in charge of the corporation or sponsor.

"Commercial quality production" means the manufacture of products suitable for shipment and/or sale.

"Control" means the ability to direct or cause the direction of the management and policies of a corporation. Whether control is present involves a question of fact to be determined from such criteria as a degree of ownership (especially of voting shares), contractual arrangements and other means of influence, such as ability to appoint a majority of a corporation's board of directors, whether by sufficient stock ownership or other means.

"Corporation" means a person as defined in Section 3(2)(b) of the Act (any corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company) and includes any person which controls, is controlled by, or is under common control with such person.

"DOE" means the Department of Energy.

"Energy efficiency" means the amount of energy in Btu's consumed per unit of production.

"Energy source" means electricity, purchased steam, natural gas, bituminous coal, anthracite, coke, ethane, propane, LPG, natural gasoline, gasoline (including aviation), special naphtha, kerosene, distillate fuel oil (including diesel), still gas, petroleum coke, residual fuel oil, crude oil, and any other material consumed as a fuel in manufacturing.

"Exempt corporation" means an identified corporation which DOE determines, pursuant to § 445.37, is not required to report directly to DOE.

"Feedstock" means petroleum products, natural gas or coal used as a raw material which is processed to become a part of the chemical composition of a manufactured product other than an energy source.

"Identified corporation" means a corporation identified by DOE in accordance with § 445.15. A corporation is an identified corporation for a year in which it consumed, in accordance with § 445.13, at least one trillion Btu's.

"Major energy-consuming industry" is an industry listed in § 445.5(a).

"Manufacturing" means the mechanical or chemical transformation of materials or substances into new products, as described on page 57 of the Office of Management and Budget Standard Industrial Classification Manual (1972).

"Manufacturing operation" means the mechanical or chemical transformation of materials or substances into a product classified with SIC codes 22, 26, 30, or 33; which is measured in a single unit of production. Manufacturing operations include, but are not limited to, the production of iron, steel, aluminum, copper, lead, zinc, wood pulp, paper, spun textile goods, woven textile goods, felt textile goods, non-woven textile goods, tires and tire products, rubber footwear, and industrial rubber products.

"Obsolete scrap" means recovered materials created by the use and subsequent discard of a product. Examples are discarded tires, automobiles, and newspapers. This includes recovered materials from outside the United States which are used in manufacturing operations in the United States.

"Plant" means an economic unit of a corporation at a single physical location where manufacturing is performed.

"Plant report" means a duly completed report on the form provided by DOE for plant reporting in accordance with section 375(c) of the Act, or on such other form as provides information equivalent to that required to be reported on the form provided by DOE.

"Product" means an item or grouping of items (separate parts of, or all of a product line) that is the production of a manufacturing corporation that is classified within a major energy-consuming industry.

"Production" means the quantity of a corporation's product output, throughput, or activity.

"Program" means the Industrial Energy Conservation Program.

"Prompt industrial scrap" means recovered materials generated by an industrial process and used as input to a manufacturing operation other than the industrial process which generated it. An example is metal fabrication stamping waste which is used in manufacturing steel. This includes recovered materials from outside the United States which are used in manufacturing operations in the United States.

"Recovered materials" means any of the following energy-saving recovered materials: aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste.

"SIC" means the Standard Industrial Classification system described in the Office of Management and Budget Standard Industrial Classification Manual (1972).

"Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other

discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities; but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation flows, or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

"Sponsor" means a trade association or other person who operates or intends to operate a reporting program which collects data from one or more corporations.

"United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"Waste" means "solid waste".

§ 445.3 Management of the program.

The Office of Industrial Programs, Office of the Assistant Secretary for Conservation and Solar Energy, Department of Energy, will implement and manage the program.

§ 445.4 Handling of information submitted under the program.

(a) Except as otherwise provided in this section, the handling of information submitted to DOE under this part shall be governed by DOE's Freedom of Information regulations, 10 CFR Part 1004.

(b) DOE will not disclose any information obtained under this part which is a trade secret or other matter described in 5 U.S.C 552(b) (4), disclosure of which may cause significant competitive harm, except to committees of Congress upon request of such committees; and information from plant reporting forms made available to DOE for verification purposes under § 445.26(a) shall not be released to the public.

(c) A corporation or sponsor which claims that information provided to DOE under this part is a trade secret or commercial or financial information that is privileged or confidential within the meaning of the Freedom of Information Act (FOIA) exemption in 5 U.S.C. 552(b) (4), and that disclosure of this information would cause significant corporate competitive damage, must so inform DOE by providing at the time of the submission of the information a detailed item-by-item explanation of whether the information is customarily treated as confidential by the corporation and the industry, and a detailed explanation of the anticipated competitive damage which would result from public disclosure.

(d) Prior to disclosing any information other than in response to a request made under 10 CFR Part 1004, DOE will grant any person who submitted information in accordance with paragraph (c) of this section an opportunity to comment on the proposed disclosure by providing at least seven days notice of DOE's determination to disclose such information. For purposes of this paragraph, notice is deemed to be given when mailed to the person who provided the information.

(e) Any information submitted to DOE by a corporation or sponsor under this part shall not be considered energy information, as defined by section 11(e) (1) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796), for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of the Act.

§ 445.5 Major energy-consuming industries.

(a) For purposes of this part, the following 2-digit SIC code manufacturing industries are the major energy-consuming industries:

(1) SIC 20—Food and kindred products;
(2) SIC 21—Tobacco products;
(3) SIC 22—Textile mill products;
(4) SIC 23—Apparel and other textile products;
(5) SIC 24—Lumber and wood products;
(6) SIC 25—Furniture and fixtures;
(7) SIC 26—Paper and allied products;
(8) SIC 27—Printing and publishing;
(9) SIC 28—Chemicals and allied products;
(10) SIC 29—Petroleum and coal products;
(11) SIC 30—Rubber and miscellaneous plastic products;
(12) SIC 31—Leather and leather products;
(13) SIC 32—Stone, clay and glass products;
(14) SIC 33—Primary metal industries;
(15) SIC 34—Fabricated metal products;
(16) SIC 35—Machinery, except electrical;
(17) SIC 36—Electric, electronic equipment;
(18) SIC 37—Transportation equipment;
(19) SIC 38—Instruments and related products; and
(20) SIC 39—Miscellaneous manufacturing industries.

(b) The following major energy-consuming industries are the industries for which reporting on the use of recovered materials is required under § 445.22(b):

(1) SIC 22—Textile mill products;
(2) SIC 26—Paper and allied products;
(3) SIC 30—(excluding Rubber products SIC 3079, as provided in § 445.22(d));
(4) SIC 33—Primary metal industries.

§ 445.6 Procedures for appeals.

Any appeal of a determination by DOE pursuant to any provision of this part shall be filed with the Office of Hearings and Appeals, U.S. Department of Energy, Washington, D.C. 20585, within 30 days of the date of that determination, pursuant to the procedures for such an appeal stated in 10 CFR 205, Subpart H. A person has not exhausted its administrative remedies until an appeal has been filed under that subpart, and an order granting or denying the appeal has been issued.

§ 445.7 General information-gathering authority.

In addition to the exercise of authority under Part E of Title III of the Act, DOE may exercise any authority available under any other provision of law to obtain such information with respect to industrial energy efficiency and industrial recovered materials use which it determines is necessary or appropriate to the attainment of the objectives of the program. Nothing in this part shall limit the authority of DOE to require reports of energy information under any other law.

Subpart B—Identification of Corporations

§ 445.11 Scope.

This subpart contains the criteria and procedures for the annual identification of corporations.

§ 445.12 Requirement for corporations to file a report on energy consumption.

(a) Except as provided by paragraph (b) of this section, a corporation which consumed, as determined according to § 445.13, at least one trillion Btu's of energy in a calendar year within a major energy-consuming industry shall file a report on that energy consumption with DOE as provided in § 445.14.

(b) Any corporation which was identified by DOE under § 445.15 within a major energy-consuming industry for a calendar year and which consumed, as determined according to § 445.13, at least one trillion Btu's of energy within the same major energy-consuming industry in the next calendar year, need

not file a new report of its energy consumption in that industry.

(c) Any corporation which was identified by DOE under § 445.15 within a major energy-consuming industry for a calendar year and which consumed, as determined according to § 445.13, less than one trillion Btu's of energy within the same major energy-consuming industry in the next calendar year shall file a report on its energy consumption in that industry as provided by § 445.14. The failure of a corporation described in this paragraph to file a report may result in the continued identification of the corporation by DOE under § 445.15.

§ 445.13 Computation of energy consumption.

(a) For purposes of this subpart, energy consumed is the sum of the Btu contents of all energy sources consumed by a corporation in a manufacturing industry within the United States and includes energy used for—

(1) Direct manufacturing activities;

(2) Thermal self-generation of electricity;

(3) Heating, ventilating and air conditioning of manufacturing buildings and plant offices, as well as manufacturing services such as shops, cafeteria, other plant personnel services, and plant chemical and analytical laboratories;

(4) In-plant transportation, such as lift trucks, conveyors, cranes, and railroads;

(5) Transportation on a manufacturer's property between mining operations and manufacturing facilities;

(6) Raw material storage; and

(7) Services for finished product warehouses within a plant fence if directly related to manufacturing activities.

(b) For purposes of this subpart, energy consumed does not include (where such use is metered separately or can otherwise be identified)—

(1) All uses of electricity self-generated by thermal means;

(2) Services for corporate and divisional offices not contiguous to a plant;

(3) Services for basic research not contiguous to a plant;

(4) Services for regional distribution centers;

(5) Fuel for corporate aircraft, salesmen's cars and over-the-highway trucks;

(6) By-product fuels sold and shipped, or stored for sale;

(7) Facility start-up energy (to point of commerical quality production);

(8) Waste used as fuel;

(9) Transport of intermediate product to another producer for finishing within the same two-digit industry;

(10) Fuels received for storage for later disposition; and

(11) Feedstocks.

(c) For purposes of this section, where energy is consumed in manufacturing in one major energy-consuming industry for purposes of manufacturing an end product in another major energy-consuming industry, and such energy is not separately metered or cannot otherwise be identified, the energy is consumed in the major energy-consuming industry of the end product.

(d) To avoid double-counting in the case of thermally self-generated electricity, a corporation's electricity consumption shall be comprised only of purchased electricity and self-generated hydropower. For example, where a corporation consumes coal in the thermal generation of electricity for its own use, the Btu's of the coal, but not the Btu's of the electricity, shall be included.

(e) Where a corporation can measure or reliably estimate the Btu content of its energy sources (except electricity), energy consumed must be determined by reference to those actual or estimated Btu contents. Where a corporation cannot measure or reliably estimate the Btu contents of its energy sources, and in the case of electricity, the following conversion factors (Btu's/energy unit) must be used:

(1) Electricity, 3,412/kwh;
(2) Natural gas, 1,020/cu. ft;
(3) Bituminous coal, 22,565,000/short ton;
(4) Anthracite, 25,400,000/short ton;
(5) Coke, 26,000,000/short ton;
(6) Petroleum coke, 30,120,000/short ton;
(7) Ethane, 73,380/gal;
(8) Propane, 91,620/gal;
(9) LPG, 95,500/gal;
(10) Natural gasoline, 110,000/gal;
(11) Gasoline (including aviation), 124,950/gal;
(12) Special Naphtha, 124,950/gal;
(13) Kerosene, 135,000/gal;
(14) Distillate fuel oil (including diesel), 138,690/gal;
(15) Still gas, 400/cu. ft;
(16) Residual fuel oil, 149,690/gal;
(17) Crude Oil, 138,100/gal; and
(18) Other energy sources (including purchased steam), (to be determined by calorimetric measurement or engineering standard as appropriate for consuming corporation).

§ 445.14 Report on energy consumption.

(a) The reports required by § 445.12 (a) and (c) must include the following information:

(1) The name, title, address and phone number of the individual responsible for reporting energy data for the corporation;

(2) The Internal Revenue Service "Employer Identification Number" (EIN) for the corporation; and

(3) The following statement, completed as appropriate:

———— consumed at least (name of corporation) one trillion Btu's of energy in calendar year ——in SIC(s) ——— (For only those corporations filing pursuant to § 445.12(c) substitute or add the completed phrase: (and) consumed less than one trillion Btu's of energy in calendar year —— in SIC(s) ———), as determined according to 10 CFR 445.13. I certify that all the information in this report is true and accurate to the best of my knowledge.

———— (Signature of Chief Executive Officer or individual designated by such officer)

———— Date of Submission

(b) Reports required by § 445.12 must be received by DOE by February 28 following the close of the calendar year for which the corporation is required to report and must be sent to the following address: Office of Industrial Programs, U.S. Department of Energy, Room 2H-085, 1000 Independence Avenue, SW., Washington, D.C. 20585. The deadline and address for submission of the report may be changed by DOE by the publication of a notice of the change in the **Federal Register**.

(c) Where a corporation controls, is controlled by or is under common control with another corporation, the corporation required to file the report is the corporation which controls.

(1) Where a corporation controls a joint venture, that corporation shall include the energy consumed by the joint venture in its energy consumption. Where more than one corporation controls a joint venture, each controlling corporation shall include in its energy consumption an equal percentage of the energy consumed by the joint venture during the calendar year for which the report is filed.

(2) Where a corporation is under common control, each controlling corporation shall include in its energy consumption an equal percentage of the energy consumer by the corporation under common control.

(3) A corporation shall supply to DOE, upon request, any material which DOE may require to verify control.

(d) All data used by a corporation in determining its energy consumption must be retained by the corporation for at least five years.

§ 445.15 Identification of corporations by DOE.

(a) Annually, after reviewing the information filed pursuant to § 445.12, and any other information on corporate energy consumption available to it, DOE

will identify each corporation which consumed at least one trillion Btu's of energy within a major energy-consuming industry in the previous year, pursuant to the procedures set forth in paragraph (b) of this section.

(b) DOE will publish in the **Federal Register** a list identifying corporations. If this list must be supplemented, DOE may publish an updated list or may notify a corporation of its identification by certified mail.

§ 445.16 Request for modification.

(a) A corporation may file a request with DOE to modify its identification pursuant to § 445.15, on the grounds of clerical or technical error.

(b) Notwithstanding the provisions of § 445.6, the request must be filed with DOE within 30 days of the identification of the corporation, at the Office of Industrial Programs, U.S. Department of Energy, Room 2H–085, 1000 Independence Avenue, SW., Washington, D.C. 20585, and marked "Industrial Energy Conservation Program: Request for Modification." DOE may change the address for the submission of such requests by the publication of a notice of such change in the **Federal Register.**

(c) 10 CFR 205.131 and 205.134 provide the format for such a request.

(d) The request must adequately explain how the corporation erred in its report of energy consumption or how DOE erred in identifying the corporation.

(e) DOE shall respond to the request by granting or denying it within 20 days of the receipt of the request by the Office of Industrial Programs.

Subpart C—Reporting Requirements

§ 445.21 Plant reporting requirements.

(a) An identified corporation shall have at its headquarters in the United States a separate report on the progress each plant of the identified coporation has made during the reporting period in improving its energy efficiency in each major energy-consuming industry within which the corporation is identified.

(b) The reports required under paragraph (a) of this section must be prepared on a plant reporting form which has been—

(1) Published and made available for this purpose by DOE, or

(2) Developed and used by the identified corporation.

(c) The reports required under paragraph (a) of this section must be completed in a manner sufficiently timely to permit the data from such reports to be aggregated in the corporation's report required by § 445.22

§ 445.22 Corporate reporting requirements.

(a) The chief executive officer (or individual designated by such officer) of each identified corporation shall report by the date specified in § 445.25 on the progress the corporation has made in improving its energy efficiency in each major energy-consuming industry within which the corporation is identified, including data aggregated from plant reports required under § 445.21.

(b) The chief executive officer (or individual designated by such officer) of each corporation identified within any of SIC(s) 22, 26, 30 or 33 also shall report by the date specified in § 445.25 on the progress the corporation has made to increase its utilization of recovered materials in each of these four industries within which the corporation is identified.

(c) The information required under paragraphs (a) and (b) of this section must be submitted by SIC code—

(1) To DOE on a corporate reporting form which has been published and made available for this purpose by DOE, or

(2) For an exempt corporation, to a sponsor of an adequate reporting program on a corporate reporting form—

(i) Described in paragraph (c)(1) of this section, or

(ii) Which provides information equivalent to that required to be reported on the form described in paragraph (c)(1) of this section, accompanied by the certification required by the DOE form.

(d) Notwithstanding the requirements of paragraph (b) of this section, the chief executive officer of a corporation identified within SIC 30, all of whose manufacturing operations are within SIC 3079, (miscellaneous plastics products), shall not be required to report on the progress the corporation has made to increase its utilization of recovered materials in SIC 30.

§ 445.23 Sponsor reporting requirements.

(a) The chief executive officer (or individual designated by such officer) of each sponsor of an adequate reporting program, as determined pursuant to § 445.37, shall report by the date specified in § 445.25 to DOE, as follows:

(1) For each major energy-consuming industry for which the sponsor has an adequate reporting program, on the progress the exempt corporations which participate in the adequate reporting program have made in improving their energy efficiency in that major energy-consuming industry, and

(2) For each of SIC(s) 22, 26, 30 and 33 for which the sponsor has an adequate reporting program, on the progress the exempt corporations which are required to report under § 445.22(b), and which participate in the adequate reporting program, have made to increase their utilization of recovered materials.

(b) The information required under paragraph (a) of this section must be submitted to DOE on a sponsor reporting form which has been—

(1) Published and made available for this purpose by DOE, or

(2) Previously supplied by the sponsor to DOE in its submission under § 445.35, accompanied by the certification required by the DOE form.

(c) Notwithstanding paragraph (a) of this section, a sponsor, in preparing its report, may aggregate data from reports filed with it by exempt corporations under § 445.22(c)(2) with data from reports by nonidentified corporations, only to the extent that the reports from the nonidentified corporations meet the requirements of § 445.22.

§ 445.24 Reporting period.

The reporting period for each report required by this subpart is the calendar year for which each corporation covered by the report is an identified corporation.

§ 445.25 Reporting date and address.

All reports submitted to DOE under this subpart must be received by DOE by the June 1 following the end of the reporting period and must be sent to the address provided in the instructions to the appropriate DOE form. This deadline and address may be changed by DOE by timely notification of such change to identified corporations and sponsors of adequate reporting programs.

§ 445.26 Data retention.

(a) All forms submitted to an identifed corporation under § 445.21 and all other data used by that corporation in preparing reports under § 445.22, must be retained by the corporation for at least five years from the filing date and must be made available to DOE promptly upon request for verification.

(b) All reports submitted by an exempt corporation to a sponsor under § 445.22(c)(2) must be retained by the exempt corporations for at least five years from the filing date. Upon request for verification the reports must be made promptly available to DOE by the corporation at its headquarters.

(c) All data, other than reports described in paragraph (b) of this section, used by a sponsor in preparing reports submitted to DOE under § 445.23 must be retained by the sponsor for at least five years from the filing date and must be made available to DOE promptly upon request for verification.

Subpart D—Exemption Criteria and Procedures

§ 445.31 Scope.

This subpart contains the criteria and procedures for the exemption of identified corporations from the requirement of filing corporate reporting forms directly with DOE. These exemptions are effective for one year and renewable annually.

§ 445.32 Criteria for the exemption of corporations.

In order for an identified corporation to be exempt from filing the corporate report required by § 445.22 directly with DOE, pursuant to § 445.37, the corporation must—

(a) File a timely and complete request to be an exempt corporation pursuant to § 445.34;

(b) Participate in an adequate reporting program; and

(c) If it was previously determined to be an exempt corporation, have met the requirements of § 445.22(a), (b) and (c)(2) for the period it has been exempt.

§ 445.33 Criteria for adequate reporting programs.

In order for a reporting program of a sponsor to be determined an adequate reporting program for a major energy-consuming industry, pursuant to § 445.37, the sponsor must—

(a) File a timely and complete request to be a sponsor with an adequate reporting program, pursuant to § 445.35;

(b) If its program previously was determined to be adequate, have met the requirements of § 445.23 and have provided each identified corporation which participated in the reporting program with (1) specific written guidance for preparing and submitting the corporate report under § 445.22(c)(2) to the sponsor, and (2) a copy of the report which the sponsor filed with DOE under § 445.23.

§ 445.34 Request to be an exempt corporation.

(a) An identified corporation may seek an exemption by submitting a request to DOE describing its participation in an adequate reporting program.

(b) This request must include the following information:

(1) The name and address of the identified corporation,

(2) The name and telephone number of the person responsible for preparing the report required by § 445.22 on behalf of the corporation,

(3) The name, address, and telephone number of the sponsor in whose reporting program the corporation has arranged to participate, together with the enumeration of all major energy-consuming industries for which the corporation will submit reports to the sponsor;

(4) A statement that it will meet the requirements of § 445.22(a), (b) and (c)(2) and § 445.26 (a) and (b);

(5) A statement of how the corporation will report to the sponsor, either—

(i) On the DOE corporate reporting form, or

(ii) On some other reporting form, designated by the corporation; and

(6) A certification by the chief executive officer (or other individual designated by such officer) of the corporation as follows:

"I certify that all information provided in this request is true and accurate to the best of my knowledge."

(c) Notwithstanding the requirements of paragraph (a) of this section, any corporation which was exempt under § 445.37 for a calendar year and for which all information required by paragraph (b) of this section is unchanged, need not refile a request for the next year.

§ 445.35 Request to be a sponsor with adequate reporting programs.

(a) A sponsor may seek to have its reporting program determined to be adequate by submitting a request to DOE describing its reporting program.

(b) This request must include the following information:

(1) The name and address of the sponsor;

(2) The name and telephone number of the person responsible for preparing the report required by § 445.23 on behalf of the sponsor;

(3) A listing of each major energy-consuming industry covered by its reporting programs;

(4) A statement that the sponsor will meet the requirements of §§ 445.23 and 445.26(c);

(5) A statement of how the sponsor will submit the reports required by § 445.23 to DOE; either—

(i) On the DOE sponsor reporting form; or

(ii) On some other reporting form, designated by the sponsor;

(6) If the sponsor designates some other form, a copy of the form, together with an index referencing each and every item on the DOE form to the corresponding identical item on the form submitted;

(7) A statement that the sponsor will provide each identified corporation which participates in the reporting program with—

(i) Specific written guidance for preparing and submitting the corporate report under § 445.22(c)(2) to the sponsor; and

(ii) A copy of the report which the sponsor files with DOE under § 445.23; and

(8) A certification signed by the chief executive officer (or other individual designated by such officer) as follows:

I certify that all information provided in this request is true and accurate to the best of my knowledge.

(c) Notwithstanding the requirements of paragraph (a) of this section, a sponsor which was determined to have an adequate reporting program for a calendar year and for which all information required by paragraph (b) of this section are unchanged, need not refile a request for the next year, if its chief executive officer (or other individual designated by such officer) submits a certification that all items in the request filed the previous year are still true and accurate to the best of his knowledge.

§ 445.36 Filing deadline and address.

The requests made pursuant to § 445.34 and § 445.35 must be received by DOE by February 28 of each year and must be sent to the following address: Office of Industrial Programs, U.S. Department of Energy, Room 2H–085, 1000 Independence Avenue, S.W., Washington, D.C. 10585. DOE may change the deadline and address for submission of such requests by publishing a notice of such change in the **Federal Register.**

§ 445.37 Determination of exempt corporations and adequate reporting programs.

(a) Annually, in accordance with the criteria set forth in § 445.32 and § 445.33, DOE will exempt corporations and determine the adequacy of the reporting programs in which they participate, pursuant to the procedures set forth in paragraph (b) of this section.

(b) DOE will publish in the **Federal Register** for public comment its proposal to exempt corporations and to determine as adequate the reporting programs in which they participate. After considering comments from interested persons, DOE will exempt corporations and determine the adequacy of the reporting programs in which they

participate by publishing a list of corporations and sponsors of programs in the **Federal Register.**

§ 445.38 Failure to report.

(a) If a sponsor of an adequate reporting program fails to submit the report required by § 445.23 by the deadline established in § 445.25, DOE may, by notice to the sponsor and to the identified corporations which participate in its program, revoke its determination that the sponsor has an adequate reporting program. Within 30 days after the notice is mailed, each such corporation must submit a corporate report directly to DOE as provided in § 445.22(c)(1).

(b) If a sponsor determines that an exempt corporation has failed to file a timely corporate report as required by § 445.22(c)(2), it should submit a report as required by § 445.23 only on those corporations which filed the corporate report with the sponsor. If an exempt corporation does not file the report required by § 445.22 with a sponsor, it must file the report required by § 445.22 directly with DOE.

Subpart E—Voluntary Energy Efficiency Improvement Targets and Voluntary Recovered Materials Utilization Targets

§ 445.41 Purpose and scope.

(a) This subpart contains the energy efficiency improvement targets and the recovered materials utilization targets established by DOE pursuant to section 374 and 374A of the Act.

(b) No liability shall attach to, and no civil or criminal penalties shall be imposed on, any corporation for any failure to meet any energy efficiency improvement target or any recovered materials utilization target contained in this subpart.

§ 445.42 Energy efficiency improvement targets.

(a) Each energy efficiency improvement target is a percentage figure which represents, for a major energy-consuming industry, the percentage reduction in energy consumption per unit of production which DOE has determined that such industry can achieve between calendar year 1972 and January 1, 1980, as established in 42 FR 29642, June 9, 1977, "Final Industrial Energy Efficiency Improvement Targets." Each target is set at a level which represents the maximum feasible improvement in energy efficiency that each industry can achieve.

(b) The energy efficiency improvement targets are set forth in Table I.

Table I

SIC Code	Major energy-consuming industry	Target
20	Food and kindred products	12
22	Textile mill products	22
26	Paper and allied products	20
28	Chemicals and allied products	14
29	Petroleum and coal products	12
32	Stone, clay, and glass products	16
33	Primary metal industries	9
34	Fabricated metal products	24
35	Machinery except electrical	15
37	Transportation equipment	15

§ 445.43 Modification of energy efficiency improvement targets.

An energy efficiency improvement target in § 445.42 may be modified at any time if DOE—

(a) Determines that such target cannot reasonably be attained or could reasonably be made more stringent, and

(b) Publishes such determination in the **Federal Register** together with a statement of the basis and justification for the modification after providing an opportunity for public comment on any proposed modification.

§ 445.44 Recovered materials utilization targets.

(a) Recovered materials utilization targets are established for each of the following industries—textile mill products, paper and allied products, metals and metal products, and rubber.

(b) Each recovered materials utilization target is a percentage figure which represents, for each industry subdivision listed in paragraph (c) of this section, the amount of recovered materials from prompt industrial and obsolete scrap which DOE has determined can be used per unit of production by calendar year 1987. Each target is set at a level which represents the maximum feasible increase in the utilization of recovered materials which the industry can achieve progressively by January 1, 1987.

(c) The recovered materials utilization targets are set forth in Tables II, III, IV, and V.

Table II.—*Textile Mill Products*

Industry subdivision	Recovered materials utilization target	Recovered materials utilization in reference year 1978
Broad woven fabric mills, wool	13	13
Yarn mills, wool	13	13
Felt goods, except woven felt hats	80	59
Padding and upholstery filling	93	93
Nonwoven fabrics	15	17
Cordage and twine	22	22
All other textile mill products	0	0

Table III.—*Paper and Allied Products*

Industry subdivision	Recovered materials utilization target	Recovered materials utilization in reference year 1977
Newsprint	18	14
Tissue	30	28
Printing and writing paper	6	7
Packaging and industrial converting papers	4	4
Unbleached kraft paperboard	10	4
Semichemical paperboard	26	26
Solid bleached paperboard	0	0
Recycled paperboard	108	108
Construction paper	55	55
Insulating and hard pressed board	17	22

Table IV.—*Rubber*

Industry subdivision	Recovered materials utilization target	Recovered materials utilization in reference year 1977
Tires and tire repair materials	5	2
Rubber industrial products	5	3
Rubber footwear	15	0
Tire retreading and repair	12	9

Table V.—*Metals and Metal Products*

Industry subdivision	Recovered materials utilization target	Recovered materials utilization in reference year 1976
Ferrous	41	38
Aluminum	35	30
Copper	50	47
Lead	60	51
Zinc	36	33

§ 445.45 Modification of recovered materials utilization targets.

Any recovered materials utilization target in § 445.44 may be modified if DOE—

(a) Determines that such target cannot reasonably be attained, or that the target should require greater use of recovered materials, and

(b) Publishes such determination in the **Federal Register** together with a basis and justification for the modification, after providing an opportunity for public comment on the proposed modification.

[FR Doc. 80-4658 Filed 2-13-80; 8:45 am]

BILLING CODE 6450-01-M

10 CFR Part 445

Industrial Energy Conservation Program

AGENCY: Department of Energy.

ACTION: Notice of change of dates.

SUMMARY: The Department of Energy (DOE) is hereby announcing changes to various deadlines for the identification

and reporting aspects of its Industrial Energy Conservation Program (program), as required by the program regulations contained in 10 CFR Part 445, issued today by DOE. These changes will affect the operation of the program in 1980 only and are made to allow sufficient time to comply with the newly issued regulations.

EFFECTIVE DATE: February 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Lewis S. Newman, Office of Industrial Programs, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–2384.

Pamela M. Pelcovits, Office of General Counsel, U.S. Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20585 (202) 376–4616.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) has today issued 10 CFR Part 445 which contains regulations for the Industrial Energy Conservation Program (program). These regulations, in part, establish deadlines for the filing of certain information and requests by manufacturing corporations and others with DOE. As required by 10 CFR § 445.14(b), § 445.25 and § 445.36, DOE is hereby providing public notice of the following date changes:

1. Statements on 1979 energy consumption, as required by § 445.12, must be received by DOE by March 31, 1980;

2. The reports required by § 445.22 and § 445.23 must be received by DOE by July 1, 1980; and

3. Requests made pursuant to § 445.34 and § 445.35 for the 1979 reporting period must be received by DOE by March 31, 1980.

These changes affect the operation of the program in 1980 only and are made to allow sufficient time for complying with the newly issued regulations. All other provisions and requirements of 10 CFR Part 445 are unchanged.

Issued in Washington, D.C. February 6, 1980.

Thomas E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 80–4659 Filed 2–13–80; 8:45 am]

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federal register

Thursday
February 14, 1980

Part V

Department of Transportation

Federal Highway Administration

Design Standards for Highways

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 80-2]

Design Standards for Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to design standards for highways.

SUMMARY: The FHWA is requesting comments on proposed amendments to the design standards which apply to most highway construction and reconstruction projects eligible to receive funding under the Federal-aid highway program. A proposed new publication of the American Association of State Highway and Transportation Officials (AASHTO) entitled "A Policy on Geometric Design of Highways and Streets" would be substituted for several existing publications which are now incorporated by reference in 23 CFR Part 625. The two primary documents that would be replaced are: "A Policy on Geometric Design of Rural Highways," AASHO, 1965, and "A Policy on Design of Urban Highways and Arterial Streets," AASHO, 1973. If adopted by the FHWA, the new AASHTO publication would constitute the FHWA's policy on the geometric design of all federally-assisted construction and reconstruction projects with the exception of those standards that currently apply to Interstate highways.

DATE: Comments must be received on or before May 14, 1980.

ADDRESSES: Submit written comments, preferably in triplicate, to FHWA Docket No. 80-2, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard. The current and propose design standards are on file at the Office of the Federal Register in Washington, D.C., and are available for inspection and copying from the FHWA Washington Headquarters and all FHWA Division and Regional offices as prescribed in 49 CFR Part 7, Appendix D. Copies of current AASHTO publications are also available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capital Street, NW., Washington, D.C. 20001. A limited number of copies of the 971-page draft publication proposed for adoption are available on request from Mr. Wilson B. Harkins at the address provided below.

FOR FURTHER INFORMATION CONTACT: Mr. Wilson B. Harkins, Highway Design Division, Office of Engineering, 202-426-0313, or Mr. Stan Abramson, Office of the Chief Counsel, 202-426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The standards, policies, and guides that have been approved by the FHWA for application on all Federal-aid highway projects are incorporated by reference in 23 CFR Part 625 (43 FR 14648, April 7, 1978). Those provisions that apply to roadway geometric design are listed in 23 CFR 625.3(a).

The American Association of State Highway and Transportation Officials (AASHTO) is an organization which represents the 52 State highway and transportation agencies (including the District of Columbia and Puerto Rico). Its members consist of the duly constituted heads and other chief directing officials of those 52 agencies. The Secretary of the United States Department of Transportation (DOT) is an ex officio member, and DOT officials participate in various AASHTO activities as non-voting representatives. Prior to 1974 the AASHTO was known as the American Association of State Highway Officials (AASHO).

Among other functions, the AASHTO develops and issues standards, specifications, policies, guides, and related materials for use by the States on all highway projects in the nation. Due to the AASHTO's recognized expertise and representation of all State highway and transportation agencies, the FHWA has worked with the AASHTO over the years in the development of design standards pursuant to the provisions of Federal law (Title 23, U.S.C.) which direct the FHWA to consult and cooperate with the States in that regard. Many of the standards, policies, and guides approved by the FHWA and incorporated in 23 CFR Part 625 were developed and issued by the AASHTO. Revisions made to such documents by the AASHTO must be independently reviewed and adopted by the FHWA before they can be applied on Federal-aid projects.

Recently the AASHTO submitted a copy of a draft AASHTO document to the Federal Highway Administrator with a request that the FHWA take whatever action it might deem necessary to have the final version of the document approved for use on Federal-aid highway projects. The draft document is entitled "A Policy on Geometric Design of Highways and Streets," and is referred to in this notice as the "Policy." This Policy contains design criteria for use on highways ranging from low volume, rural roads to urban freeways, and is intended to update and combine several existing AASHTO design documents which are currently approved for use on Federal-aid highway projects. The existing AASHTO documents are: "A Policy on Geometric Design of Rural Highways," AASHO, 1965 (referred to as "GDRH"), "A Policy on Design of Urban Highways and Arterial Streets, " AASHO, 1973 (referred to as "DUHAS"), Geometric Design Standards for Highways Other than Freeways," AASHO, 1969 (referred to as "GDS"), "Geometric Design Guide for Local Roads and Streets," AASHO, 1970 (referred to as "GDG"), and "A Policy on Design Standards for Stopping Sight Distance," AASHO, 1971 (referred to as "PDS").

Once the new Policy is adopted by the AASHTO, the five existing documents will be superseded. Similarly, should the FHWA approve the Policy for use on Federal-aid projects, the existing references in 23 CFR Part 625 of the five superseded AASHTO publications would be deleted and the Policy substituted in their place.

The primary reasons for development of the new document are: to incorporate the latest research findings on design concepts; to provide for vehicle characteristics which have changed since the previous criteria were issued; to incorporate current practice; to eliminate material covered elsewhere; and to combine into one single document the criteria now contained in at least five different publications. A more detailed discussion of the changes in the proposed Policy is included later in this notice.

Review Procedure

Publications of the AASHTO are a significant influence on the highway design policies of State and local agencies. Because it is to the advantage of all parties to use a single policy on design criteria regardless of funding source, i.e., Federal, State, or local, the AASHTO has provided the FHWA with an opportunity to formally review the final draft of its proposed Policy for acceptability on Federal-aid work. The FHWA intends to conduct its review of the proposed Policy in the following manner:

1. The FHWA, through this notice, is proposing to approve the Policy for use on Federal-aid projects. Comments on

the specific elements of the criteria contained in the document and their effect on the Federal-aid highway program are requested.

2. The FHWA will analyze all comments and, based on that analysis and its own independent review, furnish the AASHTO with those modifications needed to make the Policy acceptable for use on Federal-aid projects.

3. If the AASHTO makes the necessary modifications to the Policy and when it is published by the AASHTO, the FHWA will approve the Policy for use on Federal-aid projects by issuing a final rule incorporating it by reference into 23 CFR Part 625.

4. If the FHWA and the AASHTO cannot resolve all differences which may exist at the time of publication of the new Policy by the AASHTO, the FHWA will issue a final rule conditionally approving the document by referencing it in 23 CFR Part 625 and specifically indicating the extent of that approval (i.e., exceptions to the approved criteria would be noted in the final rule).

Summary of Proposed Policy

The proposed Policy would combine the geometric design considerations from both the DUHAS and GDRH. In general, the Policy would utilize the format of the GDRH with the following significant differences: addition of a chapter on "Highway Functions"; expansion of the "Highway Types" chapter into four functional chapters—"Local Roads and Streets," "Collector Roads and Streets," "Arterial Roads and Streets," and "Freeways"; and incorporation of the information from the current GDRH chapters "Controlled Access Highways" and "Intersection Design Elements" into various chapters. The geometric design material from "Part III–Highway Design" of the DUHAS would be incorporated in the new Policy. The DUHAS material on planning ("Part I–Transportation Planning") and location ("Part II–Highway Location") would be omitted in the expectation that these provisions would be issued separately in order to give them the full coverage and particular exposure they warrant.

The following paragraphs provide a brief synopsis of the information that would be included in each of the ten chapters of the proposed Policy and, as appropriate, any significant additions, revisions, or deletions made to the currently approved AASHTO publications.

Chapter I—Highway Functions

This chapter would be made up of information not contained in previous publications. The concept of functional classification would be presented and the various components considered in detail. This would serve as both an introduction to functional classification and an explanation of how the concept would be employed in this publication.

Chapter II—Design Controls and Criteria

This chapter would primarily be an expansion of the current chapter in the GDRH. The expansion would include new material and data from the DUHAS. The new material would be: a totally new section discussing driver performance; a revision of the current material to develop a section on highway capacity compatible with the "Highway Capacity Manual," [1] which would establish levels of service for the various functional classifications; and essentially new sections on pedestrian characteristics and safety.

Chapter III—Elements of Design

This chapter would be based on and derive much of its material from the comparable chapter in the GDRH. There would be a few significant changes and several additions. The height of eye and height of vehicle used in sight distance determinations would be lowered. The climbing lanes discussion would be changed to utilize the method in the "Highway Capacity Manual." Sections discussing decision sight distance and emergency escape ramps for heavy vehicles on steep downgrades would be added, while a new discussion would be added to the "Horizontal Alinement" section covering the employment of superelevation on lower speed urban streets.

Chapter IV—Cross Section Elements

This chapter would be based primarily on its counterpart in the GDRH. The differences would generally involve the addition of new material, including a discussion on skid resistance to supplement the section on pavements, and sections dealing with traffic barriers, noise control, park and ride facilities, ramps for the physically handicapped, and on-street parking.

Chapter V—Local Roads and Streets

The first of the four functional classification chapters, Chapter V would represent an essentially new concept although most of the data would be derived from the GDG, except for the material pertaining to special purpose roads.

The "Special Purpose Roads" part of this chapter is an outgrowth of work done by a Federal advisory group in an effort to provide guidelines for designs where the combination of volumes, use, and conditions dictate minimum criteria. One of the significant items in this discussion would provide guidelines for the use of two-directional, one-lane roadways with turnouts. The sections that would constitute the special purpose part of the chapter are "Recreational Roads," "Resource Development Roads," and "Local Service Roads."

Chapter VI—Collector Roads and Streets

This chapter would continue the functional classification concept. The values that would be established range from the higher values contained in the chapter on local roads and streets to the lower values in the chapter on arterials. Because the values would represent such a blend, it could not be derived from one primary source. Rather, it would combine pertinent information from all five of the AASHTO publications that it would supersede.

Chapter VII—Arterial Roads and Streets

The third of the four functional chapters, Chapter VII would exclude coverage of freeways even though they are considered a type of arterial. The chapter would be based primarily on information extracted from the related chapters in the GDRH and DUHAS, with the addition of values from the GDS. The variation between criteria presented in this chapter and the criteria currently used for arterials would be minimal.

Chapter VIII—Freeways

While freeways are a part of the arterial functional classification, as previously recognized, a separate chapter would be provided because there are sufficient distinctions to make such a division desirable. Urban freeway material would be taken from the chapter on this subject in the DUHAS. The rural discussion would essentially consist of original material, and would be quite brief because urban and rural freeways share many of the same caracteristics and, therefore, many of the detailed urban values are applicable to rural conditions.

Chapter IX—At-Grade Intersections

This would essentially be an updating of the chapter with the same title in the GDRH, with the incorporation of relevant material from the "Intersection

[1] The "Highway Capacity Manual," Highway Research Board, Special Report 87, 1965, is available for inspection and copying from the FHWA pursuant to 49 CFR Part 7, Appendix D, and for purchase from the Transportation Research Board, 2101 Constitution Avenue NW., Washington, D.C. 20418.

Design Elements" chapter of the same publication and pertinent information from the DUHAS. Significant changes would include: a new section describing the human, traffic, physical, and economic elements of intersection design; a new table listing the appropriate simple curve radius with taper to affect minimum edge of pavement designs for turns at intersections; an extension to the safe sight distances discussion to include vehicles turning left onto two-lane highways from a stopped position; and recent findings relative to sight distance at railroads crossings.

Chapter X—Grade Separations and Interchanges

Like the preceding chapter, Chapter X would be patterned after the chapter with the same title in the GDRH. It would incorporate pertinent data from the "Intersection Design Elements" chapter of the GDRH and from the DUHAS. Significant changes that would be made are: elimination of the presentation on rotary interchanges; a new discussion discouraging use of left-hand entrances and exits; and new or expanded material on interchange determination, route continuity, lane balance, collector-distributor roads within an interchange, double versus single exits at interchanges, wrong-way entry, and gore treatments.

Regulatory Impact

The FHWA has determined that the expected impact of this amendment is minimal. This determination is based on the fact that, although the Policy would contain a considerable amount of new material and an extensively reorganized format, the basic geometric design criteria would remain essentially the same. Examples of such basic criteria include lane and shoulder widths and horizontal and vertical alignment requirements.

Other criteria would be revised to a slightly greater extent. One example would be the criteria for stopping sight distance. Because cars have become lower over the years, the dimension for the height of the driver's eyes would be reduced from 3.75 feet to 3.50 feet to cover the majority of the vehicle population. That change would increase the stopping sight distance requirement by approximately 5 percent. The impact of such a small increase would be minimal compared to the greater impact of many other variables involved in highway design, such as terrain.

Much of the new material in the draft Policy would not in fact be a policy or standard, but would simply provide guidance for use at the discretion of the designer. Examples of such material include the discussions of the decision sight distance concept, emergency escape ramps for out-of-control vehicles, and special purpose roads. Special purpose roads are park roads, logging roads, fire roads, etc., which have limited and specialized use. The proposed criteria for emergency escape ramps are based on successful designs that have been used in various States. The proposed criteria for special purpose roads are generally based on the standards that have been used by other Federal agencies. Such criteria would have only a limited application on Federal-aid projects. Impact on the overall highway program would be negligible.

In some instances the changes that would be made to the criteria are compensatory, i.e., the application of the new criteria would result in essentially the same design as would have been achieved under the old criteria. Such is the case with determining the length of truck climbing lanes. The new criteria would reduce, for the sake of improved safety, the tolerable speed differential between cars and trucks from 15 m.p.h. to 10 m.p.h. That change in itself would require considerably longer climbing lanes in some cases. However, when the new truck characteristics were investigated it was found that truck performance in terms of weight-to-horsepower ratio has improved considerably since the original design assumptions were made. When the new tolerable speed differential is combined with the greatly improved performance of the current trucks, the final length requirements for the climbing lanes are only minimally changed. As a result, the impact on the highway program would be very minimal.

PART 625—DESIGN STANDARDS FOR HIGHWAYS

Note.—The Federal Highway Administration has determined that this notice does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. As discussed in this notice, the anticipated impact of the proposed amendment is minimal. Accordingly, a full regulatory evaluation has not been prepared at this time.

§ 625.3 [Amended]

In consideration of the foregoing and under the authority of 23 U.S.C. §§ 101(e), 109, 315, and 402; and 49 CFR 1.48(b), the Federal Highway Administration proposes to amend 23 CFR 625.3(a) by:

1. Deleting paragraphs (a)(1), (a)(2), (a)(4), (a)(5), and (a)(10);

2. Adding a new paragraph (a)(1) to read as follows:

(a) * * *

(1) A Policy on Geometric Design of Highways and Streets, AASHTO 1981.[2]

* * * * *

3. Redesignating paragraph (a)(3) to be paragraph (a)(2);

4. Redesignating paragraphs (a)(6) through (a)(9) to read (a)(3) through (a)(6), respectively; and

5. Redesignating paragraphs (a)(11) through (a)(20) to read (a)(7) through (a)(16), respectively.

Issued on: February 7, 1980.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 80-4673 Filed 2-13-80; 8:45 am]

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federal register

Thursday
February 14, 1980

Part VI

Department of Agriculture

Farmers Home Administration

Rural Housing Loan Policies, Procedures, and Authorizations; Proposed Redesignation and Revision

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1822 and 1944

Rural Housing Loan Policies, Procedures, and Authorizations; Proposed Redesignation and Revision

AGENCY: Farmers Home Administration, USDA

ACTION: Proposed Rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend and redesignate its regulations regarding Rural Housing Loan Policies, Procedures and Authorizations. This redesignation and revision is designed to facilitate and improve the administration of services provided by the program and is a result of an Agency review of regulations in accordance with Executive Order 12044.

DATE: Comments must be received on or before April 14, 1980.

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

FOR FURTHER INFORMATION CONTACT: Daryl L. Grove, Farmers Home Administration, USDA, Room 5341 South Agriculture Building, 14th and Independence, SW., Washington, D.C. 20250, Telephone 202–447–4295.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration proposes to amend its regulations to establish under Chapter XVIII, Subchapter H, Title 7 in the Code of Federal Regulations, a new Part 1944 "Housing", Subpart A "Section 502 Rural Housing Loan Policies, Procedures and Authorizations." This new Part 1944, Subpart A will replace Part 1822, Subparts A and H. This proposal incorporates the following major revisions:

1. § *1944.2(g)* A definition of "extended family" is added.

2. § *1944.8(c)(2)* Revision will provide for exemption, when determining annual adjusted income, of income received for services rendered under any volunteer program sponsored by ACTION, and for allowances paid by the Department of Labor to CETA participants.

3. § *1944.8(c)(3)* Provides for income deduction when determining annual adjusted income, for costs incurred for institutional type care which cannot be provided in the home.

4. § *1944.15(a)(5)* Revision will remove the requirement for State Directors to determine that longterm leasing of homesites is a well established practice.

5. § *1944.16(a)* The maximum allowable living area for modest housing is reduced from 1300 square feet to 1150 square feet. The change will provide adequate housing, reduce total cost, provide greater affordability by low-income applicants, and allow more applicants to obtain housing.

6. § *1944.17(a)* Added provision for acceptance of construction inspections under an insured 10 year warranty plan provided by the builder.

7. § *1944.26(a)* Application processing priorities, and criteria by which those priorities will be established, are added to provide an opportunity for housing assistance to low-income applicants living in deficient housing.

8. § *1944.26(d)* Revision will provide a guide for the applicant interview to increase the effectiveness of the interview.

9. § *1944.26(e)* Revision will more clearly set forth the services of credit counseling which will be provided.

10. § *1944.31(c)* Revision will require a new Verification of Employment, if the loan is approved more than 120 days after the last verification, to reduce the possibility of loan approval for ineligible applicants.

11. § *1944.33(a)* Revision adds requirement for a new verification of employment, if the Interest Credit Agreement will be executed more than 120 days after the last verification, to reduce the possibility of granting an improper amount of interest credit. The State Director will be authorized to allow loan closing when income exceeds the moderate income after the loan was approved.

12. § *1944.33(b)* Revision will require a new Verification of Employment if a loan is closed more than 120 days after loan approval. The State Director may authorize loan closing when the income exceeds the moderate-income limit after loan approval.

13. § *1944.33(f)* Revised to require borrowers to make the first three monthly installment payments to the county office rather than to the Finance Office.

14. § *1944.34* Added to incorporate present Exhibit E of Part 1822, Subpart A (Interest Credit).

15. § *1944.34(c)* Revised to add a designation of approval authority for interest credit.

16. § *1944.34(d)* Revision will increase income limits for interest credit on certain repair and rehabilitation loans from $3,000, 1%; $5,000, 2%; and $7,000, 3% to $5,000, 1%; $7,000, 2%; and $10,000, 3%.

17. § *1944.34(e)* Revised to include provision for the recapture of interest credit.

18. § *1944.34(f)(1)* Revised to limit the District Director's authority to waive the net worth limitation for initial interest credit eligibility to $20,000 and to provide a limitation of $100,000 in total assets.

19. § *1944.34(f)(5)* Revised to increase the maximum loan limit for Repair and Rehabilitation loans from $7,000 to $10,000.

20. § *1944.34(g)92)(i)(C)* Revision adds a requirements for a new verification of employment, when using the partial advance feature of the loan disbursement system, if the Interest Credit Agreement will be approved more than 120 days after the last verification. This will reduce the probability of granting an improper amount of interest credit.

21. § *1944.34(i)(1)* Revision will reduce the minimum interest credit required for renewal during the review period.

22. § *1944.34(i)(3)* Revised to add a minimum interest credit qualification for required action due to increased income or decreased expenses.

23. § *1944.34(j) (3) and (4)* Revised to withhold cancellation of Interest Credit until appeal period has expired.

24. § *1944.45* Added to incorporate Part 1822, Subpart H (FmHA Instruction 444.9 Conditional Commitments).

25. § *1944.46* Added to provide a method by which builders may obtain private credit for construction financing.

26. *1944–A Exhibit E* Revised to provide a time limit for borrowers to return information required for Interest Credit renewal.

27. *1944–A Exhibit H* Revision will provide a format for and evidence of the applicant interview.

28. Many editorial changes and general reorganization of the regulation is also proposed.

29. "On December 21, 1979, President Carter signed into law P.L. 96–153, the Housing and Communty Development Amendments of 1979. Title V of that law authorizes and mandates certain changes in section 502 loan making regulations. Due to time constraints these changes have not been incorporated into this proposed rule. FmHA is presently considering the effect of the new law on this regulation. Any changes to the regulation specifically mandated by the law will be incorporated into the regulation when it is published as a Final Rule. Those changes authorized by the law which are properly the subject of prior-

rulemaking procedures will be published as a Proposed Rule for comment."

Therefore, as proposed, Part 1822, Subpart A and H are deleted and a new Subpart A of Part 1944 is added as follows:

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1822—RURAL LOANS AND GRANTS

Subpart A [Deleted]

1. Subpart A of Part 1822 in hereby deleted from the CFR.

Subpart H [Deleted]

2. Subpart H of Part 1822 is hereby deleted from the CFR.

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1944—HOUSING

3. As proposed, Subpart A of Part 1944 is added and reads as follows:

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

Sec.

1944.1 General
1944.2 Definitions
1944.3 Loan Purposes
1944.4 Loan Restrictions
1944.5–1944.7 [Reserved]
1944.8 Income Eligibility Requirements
1944.9 Other Eligibility Requirements
1944.10 Rural Area Designations
1944.11 Property Requirements
1944.12–1944.14 [Reserved]
1944.15 Ownership Requirements
1944.16 Building Requirements
1944.17 Maximum Loan Amounts
1944.18 Security Requirements
1944.19–1944.21 [Reserved]
1944.22 Refinancing Debts
1944.23 Loans to Farm Ownership, Individual Soil and Water and Recreation Borrowers
1944.24 Technical Services
1944.25 Rates, Terms, and Source of Funds
1944.26 Applications Processing
1944.27–1944.29 [Reserved]
1944.30 Preparation of Loan Docket
1944.31 Loan Approval
1944.32 Actions Subsequent to Loan Approval
1944.33 Loan Closing
1944.34 Interest Credit
1944.35–1944.36 [Reserved]
1944.37 Subsequent Section 502 Loans
1944.38 Mutual Self-Help Housing Loans
1944.39 RH Loans to FmHA Employees and Loan Closing Officials
1944.40 Rural Housing Disaster Loans
1944.41–1944.43 [Reserved]
1944.44 Refinancing RH Loans
1944.45 Conditional Commitments
1944.46 Construction Financing for Builders by Private Sources of Credit
1944.47–1944.49 [Reserved]

Exhibits
A—Rural areas of 10,000 to 20,000 population
B—Addresses for Authentication of Alien Registration Cards
C—Maximum Adjusted Income for Low-Income Households
D—Maximum Adjusted Income for Moderate-Income Households
E—Interest Credit Agreement Renewal
E1—Borrowers Receiving Forms for Renewing Interest Credit Agreements
E2—Borrowers Whose Renewal Interest Credit Agreements or Notification of Cancellation have not been received
F—Mutual Self-Help Housing Guidelines
F1—Membership Agreement
F2—Promissory Note
G—Information Required to Package Applications for Section 502 Rural Housing Loans
H—Rural Housing Applicant Interview

Authority: (42 USC 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.1 General.

This Subpart sets forth the policies and procedures and delegates authority for making Section 502 Rural Housing (RH) loans to individuals under Title V of the Housing Act of 1949 as amended. The objective of Section 502 loans is to provide eligible persons who will live in rural areas an opportunity to obtain adequate but modest, decent, safe, and sanitary dwellings and related facilities. The requirements of Farmers Home Administration (FmHA) Instruction 1901–E will be applied as appropriate. Loans and services provided under this Subpart shall not be denied to any person or applicant as a result of race, sex, national origin, color, religion, marital status, age, physical or mental handicap (applicant must possess the capacity to enter into a legal contract for services), receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Protection Act.

§ 1944.2 Definitions.

The following definitions apply to this Subpart:

(a) *Above-Moderate income.* An adjusted annual income that exceeds the maximum limit for moderate-income households for the State as provided in Exhibit D of this Subpart.

(b) *Adjusted annual income.* Annual income as defined below, less 5 percent thereof and less an additional $300 for each dependent minor person (excluding the applicant and foster children) who is a member of the household.

(c) *Annual income.* Planned income to be received by the applicant, and all adults who will live with the applicant during the next twelve months. See § 1944.8(c) for supplemental rules on determining annual income.

(d) *Cosigner.* A party who joins in the execution of a promissory note to guarantee its repayment by the borrower. The cosigner becomes jointly and severally liable to comply with the terms of the note in the event of the borrower's default.

(e) *County Supervisor.* Includes Assistant County Supervisor when in the opinion of the District Director and County Supervisor the Assistant has sufficient training and experience to properly perform the required actions. Delegation of authority shall be in writing in accordance with FmHA Instruction 2006–F (available in any FmHA office.)

(f) *Existing dwelling.* One which is (1) more than 1 year old, or (2) previously occupied as a residence.

(g) *Extended family.* A family unit consisting of parents, children and other close relatives, such as grandparents or aunts and uncles, who will live together on a permanent basis.

(h) *Farm.* Includes the total acreage of one or more tracts of land which (1) is owned by the applicant, (2) is operated as a single unit, (3) is in agricultural production, and (4) annually will produce agricultural commodities for sale and home use with a gross value of at least $400 based on 1944 prices. To aid in estimating the gross annual value of agricultural commodities produced on a particular farm, a State Supplement will be issued listing the 1944 prices for the principal farm commodities in the State.

(i) *Household.* The applicant and all other persons who will live in the applicant's dwelling.

(j) *Low income.* An adjusted annual income that does not exceed the maximum limit for low-income households for the state as provided in Exhibit C of this Subpart.

(k) *Moderate income.* An adjusted annual income that does not exceed the maximum limit for moderate-income households for the State as provided in Exhibit D of this Subpart.

(l) *Nonfarm tract.* A parcel of land that is not a farm and is located in a rural area, or a building site that is part of a farm, and which secures an RH loan in accordance with § 1944.18 (b) (10).

(m) *Place.* An area containing a concentration of inhabitants within a determinable unincorporated area.

(n) *Rehabilitation.* Major repairs and improvements to existing dwellings such as the installation or completion of

bathroom facilities, installation of major items of equipment, additions, or structural changes.

(o) *Senior citizen.* A "senior citizen" is a person who is 62 years of age or older.

(p) *Town.* A "town" means a municipality similar to a city but not a New England-type town which resembles a township or country in most States.

(q) *Urban area.* Either a town, village, city, place or any associated combination thereof, which with the immediately adjacent densely settled areas has a population in excess of the limits prescribed in § 1944.10 (a)(2)(i) and (ii).

§ 1944.3 Loan purposes.

(a) A loan may be made to an eligible applicant for the following purposes:

(1) To buy, build, rehabilitate, improve or relocate a dwelling and provide related facilities for use by the applicant as a permanent residence.

(2) To buy, build, rehabilitate, improve or relocate a dwelling, and provide related facilities for a farm owner to provide housing to be occupied by the farm manager, tenants, sharecroppers or farm laborers.

(3) To refinance secured or unsecured debts as provided in § 1944.22.

(b) A loan made under § 1944.3 (a)(1) or (2) may be used to:

(1) Purchase, in fee title, a minimum adequate site on which the improvements are or will be located, if the applicant does not own an adequate site.

(2) Pay reasonable acquisition cost for a leasehold interest in a minimum adequate site at the time of making the initial RH loan.

(3) Provide an adequate and safe water supply and/or an adequate sewage disposal facility.

(4) Provide site preparation, including grading, foundation plantings, seeding or sodding of lawns, trees, walks, yard fences and driveways to building sites.

(5) Purchase and install essential equipment in the dwelling including items such as a range, refrigerator, clothes washer or clothes dryer, if these items are normally sold with dwellings in the area and if purchase of these items is not the primary purpose of the loan.

(6) Provide special design features or equipment when necessary because of physical handicap or disability of the applicant or a member of the household.

(7) Purchase and install approved furnaces and space heaters which use a type of fuel that is commonly used, and is economical and dependably available.

(8) Provide storm cellars, and similar protective structures.

(9) Pay incidental expenses such as fees for credit reports, tax monitoring service, legal, architectural, surveying and other technical services.

(10) Pay reasonable connection fees for utilities such as water, sewer, electric or gas, which are requried to be paid by the borrower and which cannot be paid from other funds.

(11) Pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned improvements.

(12) Pay real estate taxes which are due and payable on the building and/or site at the time of closing on an initial loan, if this amount is not a substantial part of the loan.

(13) To establish escrow accounts for the payment of real estate taxes or property insurance premiums in those states where the use of escrow accounts is authorized by the National Office.

(14) Provide living area for all members of the applicant's household, including "extended family," as provided in § 1944.16(a)(5).

(15) Pay part of the cost of constructing, remodeling, repairing or buying a domestic water system or waste disposal system, provided that the following conditions are met, unless exceptions are authorized by the National Office:

(i) The facility must be jointly owned and used by not more than 10 participants.

(ii) The domestic water or waste disposal system cannot be provided with a Soil and Water (SW) association loan.

(iii) The group must act as individuals and not as a legal entity such as a partnership, corporation or association.

(iv) The facility will be located in a rural area and will be used only for normal home use.

(v) The applicant will give FmHA a mortgage as required in § 1944.18(a), including the applicant's interest in the system if it is practical to mortgage the system. The interest of any co-owners of the jointly owned facility who are not applicants may be excluded from the mortgage on prior approval by the State Director, as provided in § 1944.18(b)(8).

(vi) The owners have written agreements as to the construction, use, maintenance and repair of the facility and obtain necessary jointly owned easements.

(vii) The facility will cost not more than $50,000 or have a depreciated replacement value that does not exceed $50,000 if such facility is being purchased, enlarged, or improved.

(viii) All funds to be used to finance construction or installation of the joint facility will be deposited in a supervised bank account.

§ 1944.4 Loan restrictions.

(a) Loans will not be made to: (1) A corporation or cooperative association.

(2) A homestead entryman or desert entryman to improve the entry prior to receipt of patent.

(b) Loan funds may not be used to: (1) Buy or repair income-producing land or buildings to be used for income-producing purposes.

(2) Pay fees, charges or commissions such as finder's fees, fees for packaging the application or placement fees for the referral of prospective applicants to FmHA.

§ 1944.5–1944.7 [Reserved]

§ 1944.8 Income eligibility requirements.

(a) An applicant is eligible for a Section 502 loan only if the following requirements are met:

(1) The adjusted annual income of the applicant's household as defined in § 1944.2(b) does not exceed the applicable income limit in Exhibit D. Exceptions to this requirement may be authorized by the State Director in accordance with § 1944.33 (a) or (b), or by the National Office.

(2) Adequate repayment ability, considering possible eligibility for interest credit as provided in § 1944.34, is demonstrated in the following manner:

(i) The applicants have adequate and dependably available income to meet living expenses, pay taxes, insurance and maintenance costs, and to make required payments on all obligations including the Section 502 loan; or

(ii) The applicants obtain a co-signer with dependably available income which, together with the applicants' income, will be sufficient to repay the loan. The co-signer must be an individual but may not be a member of the applicant's household.

(b) All those adult members of the household whose income must be included to meet the repayment requirements in paragraph (a)(2)(i) of this section will be considered applicants, and their signatures on the promissory note will be required as necessary to assure repayment.

(c) Annual income as defined in § 1944.2(c) will be determined as follows:

(1) Income from all sources is included except as provided in paragraph (c)(2) of this section. Income sources include, but are not limited to:

(i) Gross income from wages, salaries, and commissions.

(ii) All expected overtime and bonus income which can reasonably be considered dependable.

(iii) All net farm and nonfarm business income. Projected farm or nonfarm business losses will be considered as "0" in determing annual income.

(iv) Pensions, Social Security, welfare, and unemployment compensation.

(v) Child support payments and other payments made on behalf of minors.

(vi) The income of an applicant's spouse unless:

(A) The spouse has been living apart from the applicant for at least six months or court proceedings for divorce or legal separation have been commenced, and

(B) The applicant is informed and agrees that should the spouse begin to live in the dwelling that the spouse's income will then be counted toward annual income and the applicant may be required to graduate to other credit, and

(C) The spouse signs the security instrument, if necessary for FmHA to obtain adequate security (as provided by State supplement).

(vii) GI bill benefits, fellowships, scholarships, and assistantships.

(viii) Alimony, or other spousal support payment.

(ix) Proceeds from the sale of equipment, mineral rights or real estate sold under long-term contract (usually more than 3 years).

(2) The following income will not be included in determining annual adjusted income, although it may be included under § 1944.26 (b)(2) and (e) for documenting repayment ability:

(i) Income received by a full time student (*who is not* the applicant or co-applicant) from employment or income from GI Bill benefits, fellowships, scholarships, or assistantships for schooling.

(ii) Proceeds from the sale of equipment, mineral rights, or real estate sold under a short term contract (usually 3 years or less).

(iii) Cash value of food stamps, real estate tax exemptions, or similar types of assistance.

(iv) Payments received for the care of foster children or for services rendered as a volunteer on a project sponsored by any of the following programs:

(A) Retired Senior Volunteer Program.

(B) Foster Grandparent and Older American Community Service Programs (as either a foster grandparent, senior health aid or senior companion).

(C) National Volunteer Programs to Assist Small Business and Promote Volunteer Service by Person With Business Experience.

(D) Peace Corp, VISTA, or any other volunteer program sponsored by ACTION.

(v) Allowances paid by the Department of Labor to CETA participants. (Wages paid by the employers of CETA workers will be included).

(3) In determining the applicant's annual income the following deductions are allowed:

(i) A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the applicant's trade, business, or farming operation. The applicant must provide an itemized schedule showing the depreciation claimed. The schedule should be consistent with the amount of depreciation actually claimed for these items for Federal Income tax purposes.

(ii) A deduction may be made in the sme manner as outlined in IRS regulations for necessary work related expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and, in the judgment of the approving official, should be deducted from an employee's income to reflect annual income on an equal basis with other employed persons. Deductions, however, are not permitted for the following:

(A) Transportation to and from work.

(B) Cost of meals incurred on one day business trips.

(C) Educational expenses except those incurred to meet the minimum requirements for the employee's present position.

(D) Fines and penalties for violation of laws.

(iii) A maximum aggregrate deduction of $400 per month may be made for child care or disabled dependent care. The deduction will be limited to expenditures actually paid to enable the applicant to be gainfully employed. Payments for these services may not be made to persons whom the borrower is entitled to claim as personal deductions for income tax purposes. Full justification for such deduction must be recorded in detail in the applicant's loan docket.

(iv) A maximum aggregate deduction of $400 per month may be made for full time nursing home or institutional type care which cannot be provided in the home, for a member of the household. Such care must be expected to be required for a period of six months or more. The deduction will be limited to expenditures actually paid for such services.

§ 1944.9 Other eligibility requirements.

In addition to the income eligibility requirements of § 1944.8, the applicant must:

(a) Qualify as one of the following:

(1) A person who does not own an adequate dwelling, or

(2) A farmowner without decent, safe and sanitary housing for the farmowner's own use or for the use of farm tenants, sharecroppers, farm laborers, or farm manager.

(b) Be without sufficient resources to provide the necessary housing or related facilitites, and be unable to secure the necessary credit from other sources upon terms and conditions which the applicant could reasonably be expected to fulfill. If the applicant has only an undivided interest in the land to be improved, those co-owners whose execution of the mortgage is required under § 1944.18(b)(8) must also be unable to provide the improvement with their own resources or obtain the necessary credit elsewhere either individually or jointly with the applicant.

(c) Be a natural person (individual) who resides as a U.S. citizen in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, or who resides in one of the foregoing areas after being legally admitted for permanent residence or on indefinite parole. Applicants other than citizens must be either permanent residents or on indefinite parole. Permanent residents can verify their status by presentation of Form I–151 "Alien Registration Receipt Card". Those on indefinite parole must present Form I–94 "Arrival/Departure Card". The County Supervisor must further authenticate such information through the Immigration and Naturalization Service if the authenticity of the information provided is in doubt (See Exhibit B).

(d) Possesses legal capacity to incur the loan obligation, and have reached the legal age of majority in the State, or have had the disability of minority removed by court action.

(e) Have the potential ability to personally occupy the home on a permanent basis, if the loan is to provide housing for the applicant's own use. To illustrate, because of the probability of their being transferred or moving after graduation, military personnel on active duty and full-time students will not be granted loans unless:

(1) The applicant, if military personnel, will be discharged at an early

date (usually within 1 year). The family must continue to occupy the home in case the borrower is transferred to another duty station before discharge, and

(2) The applicant intends to make the home a permanent residence and there are reasonable prospects that employment will be available in the area after graduation or discharge, and

(3) An adult member of the household will be available to make inspections if the home is being constructed and to sign checks for work performed.

(f) Have a credit history which indicates a reasonable ability and willingness to meet obligations as they become due. The following *will not* indicate an unacceptable credit history:

(1) "No history" of credit transactions by the applicant.

(2) Bankruptcies, foreclosures, judgments, or delinquent payment records which occurred more than 36 months before the application if no recent similar situations have occurred.

(3) Isolated incidents of delinquent payments which do not represent a general pattern of unsatisfactory or slow payment.

(4) Recent bankruptcy, foreclosure, judgment or delinquent payment when the applicant can satisfactorily demonstrate that:

(i) The circumstances causing any of the above were of a temporary nature and were beyond the applicant's control. Example: loss of job; delay or reduction in government benefits, or other loss of income; increased living expenses due to illness, death, etc.

(ii) The adverse action or delinquency was the result of a refusal to make full payment because of defective goods or services or as a result of some other justifiable dispute relating to the goods or services purchased or contracted for.

(g) A loan will not be made to an applicant whose previous FmHA debts have been settled pursuant to Subpart A of Part 1956, of this Chapter, or by release from personal liability under Subpart A of Part 1955, as reflected by the County Office records, or where settlement under such regulation is contemplated, unless (1) failure to pay the indebtedness was the result of circumstances beyond the applicant's control, (2) the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been removed or will be removed by making the loan, (3) before approving the property or causing such an applicant to incur any expenses in connection with the loan the County Supervisor will complete Form FmHA 431–2, "Farm and Home Plan," or Form 431–3, "Family Budget," and send it with the application, any available case folders and recommendations to the State Office for a determination as to whether to proceed with the development of the loan docket.

§ 1944.10 Rural area designation.

(a) For the purposes of this Subpart, a rural area is:

(1) Open country which is not part of or associated with an urban area, or

(2) Any town, village, city or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

(i) has a population not in excess of 10,000 if it is rural in character, or

(ii) has a population in excess of 10,000 but not in excess of 20,000, and

(A) is not contained within a Standard Metropolitan Statistical Area (SMSA), and

(B) has a serious lack of mortgage credit for low- and moderate-income households as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development.

(b) A determination that open country, or any town, village, city, or place is not part of or associated with an urban area must include a finding that any densely populated section of the area in question is separated from the densely populated section of any adjacent urban area by open spaces (which are undeveloped, agricultural, or sparsely settled) other than open spaces due to physical barriers, commercial or industrial developments, public parks and similar open spaces, and areas reserved for recreational purposes. This determination should also consider such other factors as:

(1) The existence of known plans for development of a substantial portion of the intervening land between the area in question and an urban area within the near future (e.g., 3 to 5 years).

(2) Separate school systems and separate utilities such as water and sewer and solid waste disposal; however, consolidated schools and/or combined facilities do not necessarily indicate being "associated with".

(c) Two or more towns, villages, cities, and places may have contiguous boundaries, and each be considered separately if they are not otherwise associated with each other, as determined after consideration of paragraphs (a) and (b) of this section.

(d) The latest official Bureau of the Census data or more recent reliable population counts will be used in determining population.

(e) The State Director will be responsible for determining boundaries or rural areas and shall issue an appropriate State Supplement to identify such areas by list and maps. Areas in excess of 10,000 population will not be identified as "rural areas" in a State Supplement unless identified as an eligible area in Exhibit A of this Subpart.

(f) When a change of designation from rural to nonrural is anticipated, all developers and other interested parties should be notified.

(g) If an area designation is changed from rural to nonrural, loans may be made only in the following instances:

(1) Applications received prior to the change of designation may be processed.

(2) New conditional commitments will be issued and existing conditional commitments will be honored only in conjunction with the approval of an RH loan application which was received prior to the date the area was designated non-rural.

(3) Credit sales and transfers by assumption may be processed in such areas as authorized by § 1955.103(e) of Subpart C of Part 1955, and § 1872.18(c)(i) of Subpart A, Part 1872, (FmHA Instruction 465.1 paragraph XVIII C 1 a).

(4) Subsequent loans may be made on property in an area where the designation was changed from rural to nonrural after the initial loan was made, to make necessary repairs in connection with a credit sale of inventory property, and to make necessary repairs and/or to pay equity in connection with an assumption and transfer of an RH loan and the property securing it. Subsequent loans may not be made to existing borrowers in a nonrural area.

§ 1944.11 Property requirements.

(a) The property on which the loan is made must be located on a farm, or in a designated rural area as defined in § 1944.10 or in an area the designation of which has been changed as provided in § 1944.10(g). A nonfarm tract to be purchased or improved with loan funds must not include or be closely associated with farm service buildings.

(b) Access to the property must be via an:

(1) All-weather street which has been dedicated to and accepted by a public body which shall be responsible for continuous maintenance, or

(2) Extended driveway if:

(i) The driveway does not serve more than two individual dwellings,

(ii) The applicant obtains title or an easement to the driveway and it is included in the security for the loan, and

(iii) The maintenance cost for the driveway is considered in determining the applicant's repayment ability.

(c) If the property is being purchased with loan funds, it may not be larger than a minimum adequate site, which is the smallest area sufficient for the dwelling, related facilities, and a yard. In determining whether the property is a minimum adequate site the following considerations apply:

(1) In case of purchase of a site on which to construct a dwelling, or purchase of a new dwelling and site, the site should be not more than one acre of land unless more than one acre is needed to provide for an adequate water supply or waste disposal system.

(2) When an existing dwelling is being purchased or debts are being refinanced, the site may include more than one acre but not more than a few acres of land with no income-producing potential under the following conditions:

(i) When an existing dwelling is being purchased, the seller will sell the dwelling only with the entire site on which it is located and the cost of extra land is not a substantial portion of the loan, or

(ii) In a refinancing case, the extra land cannot be sold for a significant amount.

(3) In all cases, the buying of a site of more than one acre must be fully justified and the reasons recorded in the loan docket.

(d) Loans made to buy, build, or repair dwellings located in an area having special flood or mudslide hazards are subject to the conditions of Subpart B of Part 1806, Subchapter A of this Chapter (FmHA Instruction 426.2).

§§ 1944.12–1944.14 [Reserved]

§ 1944.15 Ownership requirements.

(a) At the time of loan closing, the applicant must have an interest in the property to be purchased, improved, or refinanced, which qualifies as one of the following:

(1) Full marketable title.

(2) The purchaser's interest under a land purchase contract which obligates payment of the purchase price, gives the rights of present possession, control and beneficial use of the property, and entitles the purchaser to a deed upon paying all or a specific part of the purchase price.

(3) An undivided fee interest if the co-owners meet the security requirements imposed by § 1944.18(b)(8).

(4) A life estate interest with rights of present possession, control and beneficial use of the property if the remaindermen meet the security requirements imposed by § 1944.18(b)(9).

(5) Leasehold interest if all of the following conditions are met:

(i) The applicant is unable to obtain fee title to the property and the rent charged for the lease does not exceed the rate being paid for similar leases.

(ii) The lessor owns the fee simple title.

(iii) Neither the leasehold nor the fee simple title is subject to a prior lien, unless the county Supervisor submits complete information to the State Director for review and authorization prior to approval of the loan. The amount of the RH loan plus any prior liens may not exceed the recommended market value of the leasehold.

(iv) The written lease contains the following provisions:

(A) The lessor's consent to the RH mortgage.

(B) Automatic renewal at the option of FmHA for as long as there is an FmHA lien on the property.

(C) Reasonable security of tenure. The borrower's interest must not be subject to summary forfeiture or cancellation.

(D) The right of FmHA to foreclose the RH mortgage and well without restrictions that would adversely affect the market value of the security.

(E) The right of FmHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(F) The right of FmHA, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell for cash or credit. In case of a credit sale, FmHA will take a mortgage with rights similar to those under the original RH mortgage.

(G) The right of the borrower, in the event of default or inability to continue with the lease and the RH loan, to transfer the leasehold, subject to the RH mortgage, to an eligible transferee with assumption of the RH debt.

(H) Advance notice of at least 90 days to FmHA of lessor's intention to cancel or terminate the lease. Such advance notice will be long enough to permit FmHA to ascertain the amount of delinquencies, the total amount of the lessor's and any other prior interests, and the market value of the leasehold interest and, if litigation is involved, to refer the case with a report of the facts to the United States Attorney for appropriate action.

(I) Express provisions convering the question of liability of FmHA for unpaid rentals or other charges accrued at the time it acquires possession of the property or title to the leasehold, and those which become due during FmHA's possession or ownership, pending further servicing or liquidation.

(J) Any necessary provisions to assure fair compensation to the lessee for any part of the premises taken by condemnation.

(v) The lease has an unexpired term, from the date of loan approval, of at least 50 years (a lease for 25 years with an option to the lessee to renew for an additional 25 years would be considered a 50 year lease) except where:

(A) A lease is granted for the purpose of permitting a person to obtain an RH loan and the time required to process and approve the loan results in the unexpired term of the lease being not less than 49 years, or

(B) A lease is in existence at least 1 year prior to the date of the loan approval, and the unexpired term of the lease is at least 50 percent longer than the repayment period of the loan. In no case may the unexpired term of the lease be less than 15 years.

(6) Possessory rights on an Indian reservation or State-owned land if the security requirements imposed by § 1944.18(b)(2) are met.

(7) The interest of an Indian in land held in severalty under trust patents or deeds containing restrictions against alienation if the security requirements imposed by § 1944.18(b)(3) are met.

(b) If an applicant's title to any part of the property does not qualify as an ownership interest under paragraph (a) of this section and is therefore defective, an RH loan may nevertheless be made if:

(1) The defect cannot be cured at a reasonable cost, and

(2) No improvements to be constructed or repaired with loan funds will be located on the parcel to which title is defective, and

(3) No security value will be accorded to the parcel to which title is defective.

§ 1944.16 Building requirements.

(a) New dwellings to be built or purchased must provide decent, safe and sanitary housing that is modest in size, design, and cost, and consistent with the market and other dwellings owned or being built in the area by others with similar income.

(1) The dwelling will contain no more than 1,150 square feet of living area, 3 bedrooms, and 1 bathroom, unless the applicant has an unusually large family. The following will be considered in determining living area:

(i) Living area will include all finished areas as well as unfinished areas that are designed for or normally considered as living area. This will include those areas which meet the Housing and Urban Development (HUD) Minimum

Property Standards (MPS) requirements for habitable area and will, for example, include at least one-half of the lower level in split foyer, raised ranch, split level design, or the first and second floor area of the Cape Cod type design. Area of stairways between living areas, enclosed entryways, or enclosed stairways need not be considered as living area.

(ii) Living area will not include such space as a patio, garage, porch not suited for year-round use, basement or other areas not designed for living area.

(iii) If the dwelling does not have a basement, living area will not include space necessary for utilities.

(2) Special design features or equipment may be included when necessary because of physical handicap or disability.

(3) Two-car garages or carports will not be authorized. Single-car garages or carports may be included if customarily included in other homes in the area.

(4) Approved wood burning devices may be authorized, however, fireplaces may be authorized only as a supplemental source of heat when justified for the specific applicant. Solar systems will be used only with prior authorization by the State Director.

(5) A dwelling for an extended family as defined in § 1944.2(g) may include bedroom area with an exterior entrance and an additional bathroom. This area should be designed in a manner that will not adversely affect the home's potential for resale.

(b) Existing dwellings purchased with RH funds must be structurally sound, functionally adequate, and either be in good repair or placed in good repair with loan funds. The policies stated in paragraph (a)(1) of this section should be used as a guide in making a determination of adequate but modest existing dwellings.

(c) Any dwelling repaired with RH funds must be structurally sound, functionally adequate, and be placed in good repair with loan funds. If the loan is not more than $5,000 and is scheduled for repayment in not more than 15 years from the date of the note, the dwelling may lack some equipment or features such as a complete bath, kitchen cabinets, closets, or completely finished interior in some rooms. Such dwellings must meet the basic housing needs of the applicant and provide decent, safe, and sanitary living conditions when the improvements financed with the loan are completed.

(d) Improvements financed with loan funds must be on land which, after loan closing, is part of a tract owned by the borrower in accordance with § 1944.15(a), or on an easement appurtenant to such a tract.

§ 1944.17 Maximum loan amounts.

(a) An RH loan to buy or build a dwelling may be made up to the market value of the security less the unpaid principal balance and past-due interest of any other liens against the security property for:

(1) An existing dwelling which is more than a year old or previously occupied as a residence.

(2) A new dwelling when any of the following conditions exist:

(i) A conditional commitment was issued in accordance with § 1944.45.

(ii) The RH loan will be closed prior to the start of construction.

(iii) Construction is financed in accordance with § 1944.46.

(iv) If the required inspections were made by FHA or VA. A complete set of plans and specifications will be submitted together with copies of inspection reports or certification by FHA or VA indicating the dwelling was built in accordance with approved plans and specifications. The builder will also furnish a certification of compliance with FmHA thermal standards for new construction as required by § 1924–A.

(v) If the dwelling was constructed under an insured 10 year warranty plan. The builder will provide complete plans and specifications together with a certification that construction was completed in compliance with the plans and specifications, HUD–FHA Minimum Property Standards and FmHA thermal standards for new construction. The cost of the insured warranty will be included in the sale price of the dwelling, if it is to be charged to the borrower.

(b) Except as provided in paragraph (c) of this section a loan will be limited to 90 percent of the market value of the security for any dwelling that does not meet the requirements of paragraph (a) of this section.

(c) A loan in excess of the amounts specified in paragraphs (a) and (b) of this section may be made when the recommended market value is exceeded by all or part of a lien held by a public body, hospital or welfare institution for advances made for medical bills, welfare payments, or state motor vehicle judgments provided:

(1) The borrower is unable to settle or compromise such lien sufficiently to avoid exceeding the market value, and

(2) The lien securing the excess amount will at all times be inferior to the FmHA mortgage securing the initial loan and any subsequent loan or advances determined by the FmHA to be reasonably necessary to carry out the purpose of the initial loan or to protect the Government's financial interest, and

(3) The existence of the excess lien will not jeopardize the security or servicing so as to preclude the making of a sound RH loan, and

(4) The borrower has the ability to meet any payments on the excess debt as they become due or are likely to become due.

§ 1944.18 Security requirements.

(a) *Adequate security.* To protect the interests of FmHA all loans must be adequately secured. Except as provided in paragraph (b) of this section, a loan is adequately secured only when all of the following requirements are met:

(1) FmHA obtains at closing a mortgage on all ownership interests in the entire tract.

(2) No liens prior to the FmHA mortgage exist at the time of closing, and no junior liens are likely to be taken immediately subsequent to or at the time of closing.

(3) The provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) regarding title clearance, and the use of legal services are complied with.

(b) *Exceptions.* Exceptions to the usual security requirements will be made as follows:

(1) *Note only.* A loan of $2,500 or less scheduled for repayment in not more than 10 years from the date of the note may be secured by the borrower's promissory note alone when the County Supervisor determines that:

(i) The applicant has a good reputation for paying debts promptly;

(ii) The applicant is in a strong financial position and will have sufficient income to readily meet all obligations; and

(iii) The applicant's equity in the real estate as improved equals or exceeds the amount of the proposed loan.

(2) *Mortgage insurance.* When the applicant is the holder of possessory rights on an Indian reservation or State-owned land, adequate security in the form of mortgage insurance from a State agency or Indian tribe will be acceptable. Separate State Supplements covering loan approval, title clearance, closing, appropriate loan documents and a Memorandum of Understanding with the State or Indian tribe insuring agency should be developed and used with the approval of the State Director and the concurrence of the Office of General Counsel (OGC). Approval of such supplements by the National Office is required prior to participation in any such program.

(3) *Indian land.* Indian land in trust or restricted status acquired with an RH loan will remain in trust or restricted

status. In these cases mortgages must be approved by the Secretary of the Interior. When a lien is to be taken on trust or restricted property, the local Bureau of Indian Affairs (BIA) representative will be requested to furnish advice and information with respect to the property and each applicant. The FmHA State Director should arrange with the BIA Area Director or other appropriate local BIA official as to how the information will be requested and furnished. A State Supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(4) *Best mortgage obtainable.* Loans of $5,000 or less scheduled for repayment in not more than 15 years from the date of the note must be secured by a mortgage, except as provided in paragraph (b)(1) of this section, but title clearance and the use of legal services in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) are not required. The best mortgage obtainable without use of these procedures will be sufficient unless the loan approval official determines that the procedures in Part 1807 of this Chapter (FmHA Instruction 427.1) are necessary to assure repayment or accomplish the objective of the loan. Evidence of ownership must comply with § 1944.24(d)(2).

(5) *Leasehold.* When the applicant owns only a leasehold interest, FmHA may not require a mortgage on the lessor's interest but will treat the lessee's interest like any other type of ownership interest in determining whether a mortgage on the leasehold is required. The lease must meet the requirements of § 1944.15(a)(5) (iv) and (v). In any State in which applicants are likely to own a leasehold interest, the State Director will issue a State Supplement outlining the technical requirements for making such loans.

(6) *Security by junior lien.* FmHA may take a junior mortgage as security for an RH loan if:

(i) The prior mortgage does not contain provisions that may jeopardize FmHA's security position or the borrower's ability to repay the loan, such as provisions for future advances, forfeiture, cancellation, foreclosure without adequate notice to junior lienholders; or

(ii) Such provisions are satisfactorily limited, modified, or waived; or

(iii) The prior lien is subordinated to the FmHA lien; or

(iv) The tract which will secure the FmHA mortgage provides adequate security for the entire prior lien debt and the RH loan.

(7) *Liens junior to FmHA lien.* Liens junior to the FmHA lien will be allowed at closing or immediately subsequent to closing only when:

(i) The junior lien will not interfere with the purposes or repayment of the RH loan, and

(ii) The total amount of the RH loan, the junior lien, and any prior liens will not exceed the market value of the security except as provided in § 1944.17(c).

(8) *Undivided interest.* When the applicant owns an undivided interest in the property, the co-owners' interests need not be included in the mortgage in the following cases:

(i) When one or more of the co-owners are not legally competent or cannot be located or the ownership rights are divided among such a large number of co-owners that it is not practical for all their interests to be mortgaged, the mortgaging of interests not exceeding 50 percent may be excluded from the security requirements upon prior approval by the State Director. The State Director should review the County Supervisor's recommendation accompanied by a full statement of ownership and conditions which justify the exclusion. All legally competent co-owners using or occupying the property will be required to sign the mortgage. Co-owners will be required to sign the note when necessary for a sound loan or to obtain the required security. The loan may not exceed the percentage of the market value of the property represented by the interests of the owners who sign the mortgage. In determining such value, consideration will be given to any adverse effect which might result from sale of the mortgaged interests separately from the nonmortgaged interests.

(ii) When an applicant owns an undivided interest in part of a farm and seeks a loan to build or improve facilities on another part in which the applicant owns the entire interest, or the applicant owns only an undivided interest in a building site which will be a part of the farm, the interest of the applicant's co-owners may be excluded from the security requirements upon approval by the State Director if:

(A) The loan will be adequately secured by the applicant's equity in the wholly owned tract,

(B) The market value of the jointly owned tract is at least equal to the debts against it, and

(C) The applicant's participation in the joint ownership of part of the farm and its operations has been and is likely to continue to be successful.

(9) *Life estate.* When the applicant owns a life estate interest in the property, the remaindermen's interests need not be included in the mortgage if one or more of the remaindermen are not legally competent or cannot be located or if the remainder rights are divided among such a large number of remaindermen that it is not practicable to obtain the signatures of all the remaindermen. In that case, the mortgaging of remainder interests, not exceeding 50 percent of the total remainder interest may be excluded from the security requirements upon prior approval by the State Director. The State Director should review the County Supervisor's and District Director's recommendations accompanied by a memorandum stating complete ownership information and circumstances which justify the exclusion. In such cases, the loan may not exceed the percentage of market value of the property represented by the interests of those remaindermen who sign the mortgage, determined with due regard to all adverse factors involved. Remaindermen will be required to sign the note when necessary for a sound loan or to obtain the required security.

(10) *Farm dwelling.* When the applicant is the owner of a farm, a mortgage may be taken only on the dwelling and dwelling site provided the following conditions can be met:

(i) The tract to be mortgaged must not include or be close to farm service buildings, must be in a good residential location, be otherwise suitable as a residential type of nonfarm tract, provide adequate security for the loan, and be contiguous to a public road, or

(ii) The tract to be mortgaged must contain at least enough land to clearly provide adequate security for the loan and to make the tract readily saleable in the area.

(11) *Defective title.* A real estate parcel to which title is defective may be excluded from the mortgage if the loan will be otherwise adequately secured, and the loan approval official, with the advice of OGC, determines that:

(i) The applicant's interest cannot be subjected to a recordable mortgage recognized by the State law, or

(ii) To include the parcel would unduly complicate loan servicing or liquidation.

(c) *Additional security.* When necessary to supplement the applicant's equity in the farm or nonfarm tract to be mortgaged, or to facilitate servicing the loan, FmHA may also take a mortgage on other real estate owned by the applicant.

(d) *Assignment of income from real estate to be mortgaged.* Income to be received by the borrower from royalties, leases, or other existing agreements

under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with § 1872.11 of Part 1872, of this Chapter (FmHA Instruction 465.1, paragraph XI), and the provisions for written consent of any prior lienholder. In small nonfarm tract cases, the State Director may authorize withholding transmittal of assignment to lessees for execution until production begins. The State Director may, in individual cases, waive the requirement of taking an assignment if:

(1) The security is otherwise adequate,

(2) Repayment of the loan is reasonably assured from other sources,

(3) The income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses, or

(4) The income is so small that the execution of an assignment is not justified.

§§ 1944.19–1944.21 [Reserved]

§ 1944.22 Refinancing debts.

Loan funds may be used for refinancing debts other than those owed to FmHA only under the following conditions:

(a) The debt was incurred by the applicant at least 5 years prior to the date the application is filed and all of the following conditions are met:

(1) Present creditors or other sources of credit will not give rates and terms on the existing debts that the applicant reasonably can be expected to meet.

(2) The debts were incurred for purposes for which a Section 502 RH loan could have been made or are advances by the mortgagee for items covered by the mortgage to be refinanced, such as accrued interest, insurance premium or real estate tax advances and preliminary foreclosure costs.

(3) Payments on the debt are so seriously delinquent that the applicant is likely to lose the dwelling at an early date if the debt is not refinanced, or the applicant will experience a financial hardship in repaying the existing debts and the FmHA loan when the FmHA loan is for improvement, rehabilitation or repair.

(4) The debts constitute a lien against the property on which a mortgage will be taken to secure the RH loan.

(5) A statement of each debt showing the purpose for which the debt was incurred, the date on which it was incurred, the final due date, interest rate, annual installment, unpaid principal and accrued interest will be obtained. If all or any part of any debt is to be refinanced, the amount necessary to settle the account in full or to bring the account current will be ascertained.

(b) Debts or costs incurred after the date of application may be refinanced if the costs were incurred for:

(1) Fees for legal, architectural and other technical services, or

(2) Materials, construction or site acquisition. The County Supervisor may authorize the use of RH funds to pay such costs only when all of the following conditions exist:

(i) The costs were incurred after the applicant filed a written application for a loan but before the loan was closed. In the case of a subsequent loan to complete improvements previously planned, the costs must have been incurred after the initial loan was closed.

(ii) The applicant is unable to pay such costs from personal resources or to obtain credit from other sources and failure to authorize the use of RH funds to pay such costs would jeopardize the applicant's capability of repaying the loan.

(iii) The construction or repair work conforms to that shown on the building plans and specifications or Form FmHA 424–1, "Development Plan," when applicable, and the costs were incurred for authorized Section 502 loan purposes.

§ 1944.23 Loans to farm ownership (FO), individual soil and water (SW), and recreation (RL) borrowers.

A Section 502 loan may be made to an FO, SW, or RL borrower or simultaneously with an FO loan and a loan from another lender if all conditions of this Subpart are met. In these cases, the borrower's current FO, SW, or RL loan may be reamortized in accordance with § 1951.40 of Subpart A, Part 1951.

§ 1944.24 Technical services.

(a) *Planning and performing construction work.* Any construction work will be planned and completed in accordance with Subpart A of Part 1804, of this Chapter (FmHA Instruction 424.1).

(b) *Planning and performing site development work.* Any site development will be planned and completed in accordance with Subpart D of Part 1804, of this Chapter (FmHA Instruction 424.5).

(c) *Appraisal.* The value of property securing RH loans will be determined as follows:

(1) When a mortgage will be taken on a nonfarm tract or small farm, or on a leasehold interest in a nonfarm tract or small farm, to secure a loan of more than $5,000, an appraisal of the security property will be made in acordance with FmHA Instruction 422.3 (availability in any FmHA office). A small farm for the purpose of this Subpart is a farm as defined in § 1944.2 (h) of this Subpart which has value primarily as a residence rather than for the production of agricultural commodities. Repayment of the RH loan will not be primarily dependent on farm income.

(2) When a mortgage will be taken on a farm tract or leasehold interest in a farm tract to secure a loan of more than $5,000, an appraisal of the security property will be made in accordance with Subpart A of Part 1809, of this Chapter (FmHA instruction 422.1).

(3) When the loan amount will be not more than $5,000, an appraisal of the real estate or leasehold interest is not required, unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security.

(4) When a loan is being made to an FmHA real estate borrower and the FmHA appraisal report in the borrower's case folder indicates the value of the security property is adequate to secure the total real estate indebtedness, including the planned loan, an appraisal is not required.

(5) Real estate mortgaged as additional security will be appraised when it represents a substantial portion of the security for the loan or when requested by the loan approving official.

(6) When real estate is to be given as security and an appraisal is not made, the County Supervisor will indicate on a separate sheet the estimate of the market value of the property.

(d) *Title Clearance and legal services.*

(1) When real estate will be taken as security except on a best mortgage obtainable basis (including a mortgage on a leasehold), title clearance and legal services for making and closing the loan will be provided in accordance with part 1807, of this Chapter (FmHA Instruction 427.1). Title clearance and legal services will not be requested until the loan is approved.

(2) When real estate will not be mortgaged or when the best real estate mortgage obtainable is taken in security without title clearance or use of legal services, each applicant will be required to submit evidence of ownership of the farm or nonfarm tract. This may be the original or a certified or photostatic copy of the deed, purchase contract, or other instrument evidencing ownership. When the County Supervisor is uncertain as to whether or not the applicant is a qualified owner, such action will be taken as the County Supervisor considers necessary, such as requiring the applicant to furnish

additional information or obtaining the advice of the OGC regarding the evidence of ownership submitted and any further information or action that may be needed. Proof of ownership, need not be as much as that required by Part 1807, of this Chapter (FmHA Instruction 427.1). For example, it may include such evidence as the levy and payment, in the applicant's name, of taxes on the real estate and affidavits by others in the community to the effect that the applicant has occupied the property as the apparent owner for a given length of time and is believed and generally reputed to be the owner. No loan will be made if the County Supervisor has actual knowledge that the applicant does not have a valid title to the property.

§ 1944.25 Rates, terms, and source of funds.

(a) *Source of funds.* Insured loan funds from the Rural Housing Insurance Fund (RHIF) will be used for all Section 502 loans.

(b) *Interest rate per annum on unpaid principal.* Loans will be made at interest rates specified in FmHA Instruction 440.1, Exhibit B (available in any FmHA office).

(c) *Amortization.* Each loan will be scheduled for repayment over a period not to exceed 33 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probability of depreciation of the security. A loan not secured by a real estate mortgage will be scheduled for repayment over a period not to exceed 10 years from the date of the note.

(d) *Interest credit.* Low-income borrowers may be eligible for an interest credit subsidy which can reduce the borrower's effective interest rate to as low as 1 percent. The policies and procedures for granting and servicing interest credit on RH loans are set forth in § 1944.34.

§ 1944.26 Application processing.

(a) *Processing priorities.* Thirty days prior to the beginning of each period for which funds are allocated to the County Office, ususally each quarter, the County Supervisor will rank applications on hand, for which processing has not begun, to establish a processing order in accordance with the following priorities which are in decending order. A running record will be attached to each application, which will include complete documentation of the information and source to justify each priority item. Each applicant will be provided a full explanation of the priorities for processing and will be advised of the priorities for which the applicant qualifies. The applicant will also be advised that only those applications for which funds are available in that funding period will be processed, and processing order will be redetermined at the beginning of each funding period considering all applications on hand and for which processing had not begun at that time. Priorities will be based solely and directly on the following objectives standards.

(1) Subsequent loans necessary to complete transfers by assumption or credit sales, and subsequent loans to present borrowers for essential repairs or weatherization purposes.

(2) Loans for repair and rehabilitation which are necessary to remove health and safety hazards for applicants who presently own and occupy a home.

(3) Households presently living in deficient housing which includes at least one of the following conditions:

(i) Lack of complete plumbing which includes at least a bathtub or shower, wash basin, flush toilet and hot running water.

(ii) Overcrowding with more than 1 person per room. The determination of the number of rooms in a dwelling will include living rooms, dining rooms, kitchen, and any other rooms designed for living area.

(4) Total household income is less than 50 percent of the median income for the area, provided the income is sufficient to repay the loan requested.

(5) Low-income participants in Farmers Home Administration Authorized Mutual Self-Help projects.

(6) Household of two or more persons.

(7) Earliest date of application.

(b) *Veterans preference.* Veterans preference will apply within each priority criteria when:

(1) There is a shortage of funds.

(2) Obligating forms are ready to be submitted to the finance office, and

(3) There is more than one application having the same date.

(c) *Appeal.* Since the priority given any applicant is based on objective standards and does not deny or reduce FmHA assistance, the placing of an application in a particular priority is not a decision appealable under FmHA Instruction 1900–B.

(d) *Application forms.*

(1) Applications for Section 502 RH loans will be made on Form FmHA 410–4, "Application for Rural Housing Loans (Nonfarm Tract)", or Form FmHA 410–1, "Application for FmHA Services", which are available at local County Offices, and processed in accordance with Subpart A of Part 1910 of this Chapter.

(2) If Form FmHA 410–4 does not provide sufficient information to clearly determine the applicant's repayment ability, or if the applicant needs Credit counseling, Form FmHA 431–3 will be completed by the applicant and County Supervisor. In preparing Form FmHA 431–3 the following will be considered:

(i) Non-cash items (*e.g.*, food stamps, scholarships, free clothing, or transportation which help reduce the applicant's budgeted expenses) will be properly documented, and budgeted expenses will be reduced accordingly.

(ii) Income from all sources not used to determine adjusted annual income, such as earnings from employment of minors or full-time students, foster care payments, and similar income items, will be considered to the extent it is used to offset budgeted expenses even though such income will not be included in "annual income."

(3) An applicant who completes Form FmHA 410–1 will also complete Form FmHA 431–2 as prescribed in Subpart B, Part 1924 of this Chapter. In preparing Form 431–2, the provisions of paragraphs (2) (i) and (ii) of this section will apply to allow consideration of all income and non-cash items. When a loan is to be made to a non-operator farmowner, the columns in Tables B and C pertaining to the operator's share will be changed to the owner's share. If an application is being considered early in the crop year for a borrower who has a current Form FmHA 431–2, such form will be revised to show changes in the financial statement and significant changes in the planned operation. However, if the crop year is well advanced or completed, a farm and home plan will be developed for the ensuing year. The applicant will also complete Form FmHA 431–1, "Long-Time Farm and Home Plan", when needed.

(e) *Applicant interview.* A personal interview will be conducted by FmHA employees with all applicants before approval of the requested loan. During the interview, the applicant will verify information, including any submitted by a packager or others, concerning the applicant's employment and income. The applicant will also verify information concerning persons who will occupy the dwelling and on whose income eligibility for the loan and any interest credit is based. The County Supervisor will inform the applicant, and reach an understanding with the applicant, as to the FmHA loan making and servicing authorities, and the responsibilities of the borrower. The *discussion* will include an explanation

of all options of assistance which may be available to the applicant or borrower. A documentation of the items *discussed* will be placed in each borrower case file and will be dated and signed by both the applicant and County Supervisor. A copy will be provided to the applicant or borrower at the time of the personal interview. Exhibit H of this Subpart sets forth items which must be included and may be used as a guide in preparing a State form for this purpose. *No housing loan will be approved without such evidence that a personal interview has been completed.*

(f) *Credit counseling.* During the time of the applicant's initial interview and application processing, consultation will be provided as necessary to assist the applicant in preparing and understanding a meaningful budget, Form FmHA 431–2, or Form FmHA 431–3, which will reasonably reflect the applicant's repayment ability. County Supervisors will work closely with applicants to better understand all sources of income and cash substitutes. Credit and financial counseling will also be provided, as needed, to suggest financial management methods by which the applicant's success as a homeowner may most likely be achieved. When the County Supervisor determines that the applicant does not have sufficient income to repay the requested loan, other alternatives will be suggested such as reducing amenities in the dwelling, selecting a less expensive dwelling or site, obtaining a cosigner, or when appropriate, building the dwelling by the self-help method.

(g) *Determining eligibility.*

(1) The County Committee will determine eligibility of RH applicants who are also applying for or are indebted for a Farmer Program loan. The County Supervisor will determine eligibility for all other RH applicants.

(2) Repayment ability will be evaluated on the circumstances surrounding the individual case including possible eligibility for interest credits as provided in § 1944.34. Under no condition will arbitrary guidelines or "rules of thumb" be used. If the applicant(s) can verify payment of a comparable or greater amount for housing costs for the previous 12 months, the applicant will be presumed to have repayment ability for the requested loan unless:

(i) Projected annual income is less than current or past income,

(ii) Planned expenses are proportionally greater than current expenses, when compared to income, or

(iii) The applicant has increased debts, or failed to pay existing debts in order to maintain the present standard of living.

(3) Credit history will be considered to the extent that it is used in evaluating all applicants for similar types and amounts of credit. For instance, credit requirements for a female applicant will not differ from those of a male applicant.

(4) The age of the applicant will not be used as a consideration of eligibility, except as provided in § 1944.9 (d).

(5) The County Supervisor must determine whether the applicant could obtain housing credit elsewhere as follows:

(i) In any case in which a County Supervisor determines there is no possibility of the applicant's obtaining adequate housing credit elsewhere and, therefore, does not require the applicant to provide evidence that an effort has been made to obtain such credit, the County Supervisor will record that conclusion and the basis for it in the loan docket.

(ii) In any case where there may be a possibility that credit could be obtained from another source, the County Supervisor will require the applicant to make a diligent effort to obtain other credit.

(A) Applicants will be expected to apply for credit from lenders engaged in extending long-term housing credit in the area.

(B) Applicants should be advised to request lenders to indicate the amount, interest rate, and terms of housing credit they would be willing to extend to the applicant.

(C) When appropriate, the County Supervisor should verify evidence presented by an applicant that adequate credit is not available elsewhere.

(D) Letters from the lenders and any other evidence indicating that the applicant is unable to obtain credit elsewhere will be included in the loan docket.

(E) In no case will a loan be made to an applicant who is able to obtain the credit needed at terms that can reasonably be expected to be within the applicant's repayment ability.

(h) *Optioning of real estate.* The County Supervisor should advise the applicant with respect to the size, design, quality, cost and location of the dwellings and dwelling sites suitable for the RH program. If possible this should be done before the applicant selects a property to be purchased. Form FmHA 440–34, "Option to Purchase Real Property", should be used, however, other option forms may be used if their provisions are acceptable.

(i) *Application assistance.* Builders, brokers, contractors, and others including organizations such as those providing self-help assistance, who can provide complete information on the applicant and the house that is to be purchased, may assist in the assembly and processing of loan applications. Builders or sellers who received Conditional Commitments may also assist applicants in applying for an RH loan to buy a house for which a Conditional Commitment was issued in accordance with § 1944.45 of this Subpart. The County Supervisor will meet with such interested parties to explain:

(1) The eligibility requirements of RH loans,

(2) The size, design, cost and location of homes that can be financed,

(3) How applications will be handled, and

(4) The type of information that must be submitted. The information to be submitted is listed in Exhibit G of this Subpart.

§§ 1944.27–1944.29 [Reserved].

§ 1944.30 Preparation of loan docket.

(a) Forms and documents will be fastened in the designated filing positions of the case folder as prescribed in Exhibit A of FmHA Instruction 2033–A, (available in any FmHA office). Appropriate loan docket forms will be prepared in accordance with the Forms Manual Insert for distribution as follows:

Form No.	Name of form	Total number of copies	Number signed by borrower	Loan docket	Copy for borrower
FmHA 444–12	Check Sheet for Rural Housing Loan Package	1		1–O	
FmHA 410–1	Application for FmHA Services	1	1–O	1–O	
FmHA 410–4	Application for Rural Housing Loan (Nonfarm Tract)	1	1–O	1–O	
FmHA 410–5	Request for Verification of Employment	1			
FmHA 410–7	Notification to Applicant on use of Financial Information from Financial Institution.	2		1–C	1–O
FmHA 410–8	Applicant Reference Letter	1		1–O	
FmHA 410–9	Statement required by the Privacy Act	2	2–O	1–C	1–O
FmHA 431–2	Farm and Home Plan	1	1–O	1–O	(In record book)
FmHA 431–1	Long-Time Farm and Home Plan	2	2–O&C	1–C	1–O
FmHA 431–3	Family Budget	2	2–O&C	1–C	1–O
FmHA 440–2	County Committee Certification or Recommendation	1			1–O
FmHA 427–8	Agreement with Prior Lienholder (or similar form)	***3		1–O	1–C

Form No.	Name of form	Total number of copies	Number signed by borrower	Loan docket	Copy for borrower
FmHA 440-34	Option to Purchase Real Property	***3	2-O&C	1-O	1-C
FmHA 424-1	Development Plan (including any plans, specifications, and cost estimates).	**2	1-O	1-O	1-C
FmHA 422-8	Property Information and Appraisal Report (Rural Housing Nonform Tract).	1		1-O	
FmHA 422-1	Appraisal Report (Farm Tract) (with attachments)	1		1-O	
FmHA 427-9	Preliminary Title Opinion	1		1-O	
FmHA 444-6	Interest Credit Agreement (Section 502 RH Loans)	3	1-O	3-O&2C	1-C
FmHA 440-1	Request for Obligation of Funds	4	2-O&C	3-O&2C	1-C
FmHA 444-2	Single Family Housing Fund Analysis	4		4-O&3C	
FmHA 440-35	Acceptance of Option	2	1-O	1-C	+1-O
FmHA 440-42	Credit Sale Disclosure Statement	3		3-O&C	1-O
FmHA 440-43	Notice of Right to Rescind	3		3-O&C	2-O&C
FmHA 400-3	Notice to Contractors and Applicants	3		1-O	1-C
FmHA 400-6	Compliance Statement	8		1-O	1-C
FmHA 440-9	Supplementary Payment Agreement	2	1-O	2-O&C	1-C
FmHA 440-45	Nondiscrimination Certificate (Individual Housing)	2	2-O&C	1-O	1-C

O—Original; C—Copy.
** When contract method will be used, 3 copies of plans and specifications will be required.
*** Copy to lienholder.
**** Signed copy of option previously delivered to seller.
+ Original to seller.

(b) All other documents necessary for approval of the particular loan will be included in the loan docket. This will include the following or others as appropriate:

(1) A copy of Exhibit H, "Rural Housing Applicant Interview", or a similar document executed by the applicant.

(2) Credit report(s) on the applicant(s).

(3) Evidence of ownership such as a certified copy of the applicant's deed, lease, purchase contract, or other evidence specified in § 1944.24(d), or a statement by the County Supervisor that such documents have been reviewed.

(4) Title opinion or report of lien search.

(5) Estimates of the value of any security not appraised on Form FmHA 422–1 or Form FmHA 422–8.

(6) Agreements from prior lienholders, if any, when necessary to comply with § 1944.18(b)(6). If required by a State Supplement issued under § 1807.2(f)(5) (paragraph II F 5 of FmHA Instruction 427.1), foreclosure or assignment notice agreements should also be included in the docket.

(7) When the loan is to be secured by a junior real estate mortgage, the docket must include a copy of each prior mortage and, if available, a copy of each secured note or other obligation, furnished by the applicant at the applicant's own expense. The applicant must also furnish a current statement signed by the mortgage showing the amount of unpaid principal secured by the mortgage; the amount of any accrued interest; the amount of any delinquency, with interest and principal shown separately; and, if a copy of the note is not furnished, its maturity date, payment schedule, interest rate, and a summary of any other provisions of the note.

(8) When the applicant obtains a co-signer, the docket must include that co-signer's current financial statement, income statement, and employment or business history. This will be supplemented by a statement from the County Supervisor as to the co-signer's financial condition and reputation for paying debts, and any other information, such as a credit report, that will be of assistance to the loan approval official.

§ 1944.31 Loan approval.

(a) The State Director, District and Assistant District Directors, County and Assistant County Supervisors are authorized to approve or disapprove loans in accordance with FmHA Instruction 1901–A (available in any FmHA office).

(b) The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations and that funds are available for the loan.

(c) Prior to loan approval a new verification of employment will be required if more than 120 days have elapsed since the date of the last verification of employment, or if evidence is brought to the attention of the loan approval official that indicates the applicant's financial status has changed significantly.

(d) When a loan is approved, the loan approval official will:

(1) Indicate on all copies of Form FmHA 440–1 any condition that must be met before the loan is closed. Also, the loan approval official will specify all security requirements that the applicant will need to meet, such as a first real estate lien or a junior lien subject to certain prior liens. If title evidence is required in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes satisfactory title evidence, the County Supervisor will proceed with processing the loan, except in those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(2) Sign the approval certification on the original and one copy of Form FmHA 440–1 and insert title in the space provided. The remaining copies will be conformed.

(3) If a loan is not approved after the docket has been developed, the reason for such action with date and initial of the approval official will be shown on the original Form FmHA 440–1; the County Supervisor will notify the applicant in accordance with § 1910.6 (b) of Subpart A of Part 1910.

(e) After the loan is approved the docket forms will be distributed as outlined below.

(1) *To the Finance Office.*

(i) Form FmHA 440–1 (original)

(ii) Form FmHA 444–2 (orginial)

(2) *To the State Office.* If the loan is approved by the County Supervisor, or the District Director, an unsigned copy of Form FmHA 440–1 (unless exempted by State Supplement) and a copy of Form FmHA 444–2 will be sent to the State Office. It the loan is approved in the State Office, and unsigned copy of Form FmHA 440–1 and a copy of Form FmHA 444–2 will be retained in the State Office.

(3) *To the borrower.* A signed copy of Form FmHA 440–41, the orignal of Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate," and if applicable, the original and copy of Form FmHA 440–43 and a copy of Form FmHA 440–34.

§ 1944.32 Actions subsequent to loan approval.

(a) *Requesting a loan check.*

(1) A loan check will be requested when all approval conditions can be met and necessary curative actions have been taken to provide a satisfactory title to real estate security. Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request," will be completed and a copy sent to the Finance Office to request the check.

(2) A loan check may be requested at the time of loan approval by entering the amount of the check requested on Form FmHA 440–1 when one of the following conditions exist:

(i) The loan will be secured by a promissory note only, or

(ii) Real estate security will be taken and the County Supervisor is reasonably certain that satisfactory title evidence can be obtained and the loan can be closed within 21 days from the date of the check request.

(3) When all or not less than $4,000 of the loan funds will be expended within 15 days of loan closing the total amount of the loan will be requested in a single advance.

(4) If loan funds cannot be expended within 15 days the County Supervisor will enter in the appropriate "block" of Form FmHA 440–1 the amount of loan funds to be disbursed at loan closing. Additional loan funds will be requested when, and in amounts, needed by submitting a completed copy of Form 440–57 to the Finance Office, or by telephone request if the additional funds cannot be received by the date needed using mail service. The County Supervisor should work with borrowers, developers, and others to be sure that funds will be available when needed and to reduce the future advances to a reasonable number. Any loan funds not requested by the "amortization effective date" for the loan, will be disbursed by the Finance Office to the County Office by check dated on the amortization effective date. The check will be deposited in the borrower's supervised bank account if it cannot be endorsed directly to a payee within 20 working days from the date of the check.

(b) *Handling Loan Checks.*

(1) When the loan check or borrower's personal funds are to be deposited in the designated loan closing agent's escrow account, this will be done no later than the date of loan closing. If loan funds or borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with § 1902.6 of Part 1902 Subpart A no later than the first banking day following the date of loan closing.

(2) If a loan check is received and the loan cannot be closed within 20 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA Instruction 102.1 (available in any FmHA office).

(c) *Cancellation of loan.* Loans may be cancelled before loan closing by the use of Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation", prepared in accordance with the Forms Manual Insert (FMI) for that form. Checks received in the County Office will be returned with a copy of form FmHA 440–10 to the Disbursing Center, U.S. Treasury Department, P.O. Box 3329, Kansas City, Kansas 66103. Interested parties will be notified of the cancellation as provided in § 1807.6 of Part 1807, of this Chapter (FmHA Instruction 427.1). If the cancellation is not a voluntary action by the applicant, the applicant will be notified in accordance with § 1910.6(b) of Part 1910 Subpart A.

(d) *Increase or decreae in amount of loan.* If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office. The loan docket will be revised accordingly and reprocessed.

(e) *Property insurance.* Buildings on the property which is to be taken as security for the loan will be insured in accordance with Subparts A and B of Part 1806 of this Chapter (FmHA Instructions 426.1 and 426.2) when appropriate.

§ 1944.33 Loan closing.

(a) *Loans approved with interest credit.* If the loan will be closed and Form FmHA 444–6 or 444–6A, "Interest Credit Agreement (Section 502 RH Loans)", will be executed more than 120 days after the last "Verification of Employment", or if there is evidence to indicate the applicant's financial status has changed significantly, a current "Verification of Employment" will be obtained and the amount of interest credit will be determined on the basis of the applicant's new circumstances. If the adjusted income exceeds the limit set forth in Exhibit D, of this Subpart, the case will be referred to the State Director. The State Director may authorize closing of the loan if there is documented evidence to clearly indicate other credit is not available. Interest credit will not be authorized in such cases.

(b) *Loans approved without interest credit.* Further review of the applicant's financial status is not required at the time of closing unless the loan is closed more than 120 days after the date of loan approval, or there is evidence to indicate the financial status has changed significantly. If the adjusted income exceeds the limit set forth in Exhibit D of this Subpart, the case will be referred to the State Director. The State Director may authorize closing of the loan if there is documented evidence to clearly indicate other credit is not available.

(c) *Promissory note.* Form FmHA 440–16, "Promissory Note", will be prepared and signed in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), and the FMI for the form.

(1) The payment alternatives of the note will be completed in accordance with the FMI for the form and the following:

(i) Payments of principal and interest will be deferred during the period the dwelling is not expected to be suitable for occupancy as a residence because of construction or repairs to be made. In such cases, accrued interest is added to principal and repaid in regular amortized installments (payment alternative II) after the deferment period.

(ii) Payments of principal but not interest may be deferred on subsequent loans when authorized by the Administrator in accordance with § 1944.37 (f) of this Subpart.

(iii) Payments on principal and interest or principal only may be deferred on Rural Housing Disaster (RHD) loans in accordance with § 1944.40 (e) of this Subpart.

(iv) Payment will not be deferred if the dwelling is suitable to be occupied as the borrower's residence when the loan is closed except as provided in paragraphs (c)(1) (ii) and (iii) of this section.

(2) The payment provision of the note will be completed in accordance with the FMI for the form and the following:

(i) The monthly payment provision will be used for all borrowers who regularly receive monthly income and who can repay the loan in 12 equal monthly payments.

(ii) The annual payment provision will be used only for borrowers who do not regularly receive monthly income. If installments are not to be deferred, the following provisions apply:

(A) The amount of the first installment will be determined by the County Supervisior after considering the immediate debt paying ability of the borrower. The amount of the first installment may be less, but not more, than a regular annual installment.

(B) The amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to the next January 1.

(C) Form FmHA 440–9 should be used to supplement this payment provision to facilitate servicing of loans for borrowers who pay more than one time a year.

(d) *Real estate mortgage.* Form FmHA 427–1, "Real Estate Mortgage for *(state)*" will be used for loans to be secured by a real estate mortgage. Any changes made in the test by deletion, substitution, or addition (excluding filling in blanks) will be initialed in the margin by all persons signing the mortgage. Additions will be made on the mortgage in the following cases:

(1) For a loan secured by a mortgage on a leasehold, the following language, or similar language which in the opinion of OGC is legally adequate, will be

inserted in the mortgage just before the legal description of the real estate:

"All Borrower's right, title, and interest in and to the leasehold estate for a term of —— years beginning on ————, 19—, created, executed and established by certain Lease dated ————, 19—, by ———— as lessor(s), and recorded at Book ————, Page — of the ———— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:"

(2) For a loan secured by a mortgage on a leasehold an additional covenant will be inserted in the mortgage to read as follows:

"Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinqush, without the Government's written consent, any of Borrower's right, title or interest in or to said leashold estate or under said Lease while this instrument remains in effect."

(3) For all initial and subsequent Section 502 RH loans, until the mortgages are revised, the following additional covenant will be inserted above the signature line on the mortgage and be initialed at loan closing by all parties signing the mortgage.

"This instrument also secures the recapture of any interest credit or subsidy which may be granted to the borrower(s) by the Government pursuant to 42 U.S.C. 1490a."

(e) *Collection of first installment.* If the annual payment provision of the note is used and payments are not deferred, the first installment of a loan closed during December will be collected at the time of loan closing.

(f) *Direct payments.* Direct payment cards for all new borrowers, including transferees, will be retained in the County Office until the borrower has made at least three monthly payments on time. The cards will then be delivered to the borrower and payments will be made direct to the Finance Office. The County Supervisor may retain the payment cards for a longer period if such action is considered to be necessary to determine that the borrower is able to make timely payments as agreed. Payments made to the County Office will be forwarded to the Finance Office with the appropriate direct payment card in the Finance Office mail. Cash payments, refunds, and extra payments made by borrowers will be handled in accordance with FmHA Instruction 451.2.

(g) *Owner's policy of title insurance.* If an owner's policy of title insurance is obtained, it will be delivered to the borrower as soon as it is received from the title insurance company.

(h) *Real estate mortgage after filing.* When the real estate mortgage is returned by the filing official or loan closing official, the original will be filed in the borrower's case folder. If the original is retained by the filing official in the official records, a copy conformed to show the recording data including the date and place of recording and the book and page number will be filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower.

(i) *Effective date of loan closing.* A loan secured by a real estate mortgage is closed when the mortgage is filed for record. In other cases a loan is closed when the borrower executes the note and any other required instruments.

(j) *Water stock certificate or other such collateral.* When water stock certificates or other such collateral are part of the security, they will be retained in the County Office. A notation will be made on Form FmHA 405–1, "Management System Card-Individual", or Form FmHA 405–5 "Management System Card-Individual (RH only)", as appropriate, showing that such security has been retained.

(k) *Account record and case folder.* The account record and case folder will be established in accordance with FmHA Instructions 2033–A and 405.1 (available at any FmHA office).

§ 1944.34 Interest credit.

(a) *General.* It is the policy of FmHA to grant interest credit on loans to lower income borrowers to assist them in obtaining decent, safe, and sanitary dwellings and related facilities.

(b) *Definitions.*

(1) *Annual payment borrowers.* Borrowers who signed promissory notes providing for annual payments, including borrowers converted to monthly payments through the use of Form FmHA 451–37, "Additional Partial Payment Agreement".

(2) *Monthly payment borrowers.* Borrowers who signed promissory notes providing for monthly payments.

(3) *Review period.* The review period for an annual payment borrower will be the months of August, September, and October. The review period for a monthly payment borrower will be the third, fourth, and fifth months prior to the anniversary date of the borrower's current Interest Credit Agreement.

(4) *Real estate taxes.* Real estate taxes for interest credit purposes means the amount of real estate taxes and assessments that will actually be due and payable on the dwelling and the dwelling site during the interest credit period, reduced by the amount of any tax exemptions available to the borrower, regardless of whether such exemption are actually claimed and received. Tax exemptions may include such things as homestead exemptions, special exemptions for low-income families, senior citizens, veterans and others.

(c) *Approval authority.* Those FmHA officials who are authorized to approve Section 502 loans are also authorized to approve a grant of interest credit.

(d) *Amount of interest credit.*

(1) Except as provided in paragraph (d) (2) of this section, the amount of interest credit the borrower receives will be the lesser of:

(i) The difference between 20 percent of the borrower's adjusted annual income and the annual installment due on the promissory note plus costs of real estate taxes and insurance, or

(ii) The difference between the annual installment due on the promissory note and the amount the borrower would pay if the loan were amortized at an interest rate of one percent.

(2) For repair and rehabilitation loans which meet the requirements of paragraph (f) (5) of this section, interest credit will be granted in an amount to achieve the following effective interest rates:

(i) For borrowers whose adjusted annual income is not more than $5,000, interest credit will be calculated to reduce the effective interest rate to 1 percent.

(ii) For borrowers whose adjusted annual income is more than $5,000 but not more than $7,000, interest credit will be calculated to reduce the effective interest rate to 2 percent.

(iii) For borrowers whose adjusted annual income is more than $7,000 but not more than $10,000, interest credit will be calculated to reduce the effective interst rate to 3 percent.

(3) Borrowers qualifying for interest credit assistance under both paragraphs (d)(1) and (d)(2) of this section will be granted only the one type of interest credit assistance that is most beneficial to them. Interest credit on initial and subsequent loans will always be the same type. There is no provision for switching from one type of interest credit to the other.

(e) *Recapture.* At the applicant interview, the County Supervisor will advise all Section 502 RH applicants that interest credit is subject to recapture. Applicants who receive interest credit will be required to sign a "Subsidy Repayment Agreement" (Part 1951, Subpart I, Exhibit A) at the time the initial interest credit agreement is signed.

(f) *Eligibility.* To be eleigible for interest credit, a borrower must quality

for a Section 502 loan, must personally occupy the dwelling, and must meet the following additional requirements:

(1) *Initial loans.* Interest credit may be granted at loan closing if:

(i) The borrower's adjusted annual income does not exceed the applicable low-income limit in Exhibit C, unless an exception is authorized by the State Director in accordance with § 1944.33(a).

(ii) The borrower's net worth does not exceed $5,000, excluding the value of the dwelling and dwelling site, cash on hand which will be used to reduce the amount of the loan, and household goods and the debts against them, unless an exception is authorized. For the purpose of determining whether an exception is justified, consideration will be given to the nature of the assets, particularly whether they are assets upon which a borrower is currently dependent for a livelihood or which could be used to reduce or eliminate the need for interest credit. Elderly persons will be permitted to retain a reasonable reserve for necessary health and maintenance expenses. The District Director may authorize exceptions of the net worth limitation up to $20,000. Cases for which the net worth exceeds $20,000 or when total assets exceed $100,000, after the loan is closed, will be submitted to the National Office for authorization to grant interest credit.

(iii) The term of the loan is for 33 years, unless authorized otherwise by the State Director, based on complete documentation of the justifiable reasons on an individual case basis. Interest credit will not be granted on loans with a term of less than 25 years, except as provided in paragraph(f)(5) of this section.

(iv) The loan was approved on or after August 1, 1968.

(v) The amount of interest credit exceeds $5 per month or $60 annually.

(2) *Subsequent loans.* Interest credit may be granted on subsequent loans which meet the requirements of paragraph (f)(1) of this section or the following conditions:

(i) Interest credit is presently being or will be granted on the initial loan and the borrower's adjusted income does not exceed the moderate income limit for the State as shown in Exhibit D, and

(ii) The sum of interest credit being granted on the initial and subsequent loans will exceed $5 per month or $60 per year.

(3) *Transfers and credit sales.* Interest credit may be grnated to a borrower buying an inventory dwelling or assuming an RH loan if the requirements of paragraph(f)(1) of this section are met. If the loan being assumed was initially approved before August 1, 1968, the assumption must be on new terms.

(4) *Existing loans.* Interest credit may be granted at any time after loan closing if:

(i) The requirements of paragraph(f)(i) of this section are met.

(ii) The loan was approved as a "low or moderate" Section 502 loan on or after August 1, 1968.

(iii) The borrower requests interest credit, or the County Supervisor determines that interest credit is needed to enable the borrower to repay the loan. In the case of married borrowers, when one spouse has left the dwelling due to marital discord, interest credit may be extended to the remaining spouse if:

(A) The remaining spouse is occupying the dwelling, owns a legal interest in the property, and is liable for the debt,

(B) The FmHA loan account is put in the remaining spouse's name,

(C) Legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings, or one spouse has not been living in the dwelling for at least six months. Interest credit will not be granted if separation is due only the work assignment or military order.

(D) The remaining spouse is informed and agrees that should the spouse begin to live in the dwelling, that spouse's income will then be counted toward annual income and interest credit may be reduced or cancelled.

(5) *Repair and rehabilitation loans.* Interest credit may be granted on Section 502 RH loans made to repair or rehabilitate a dwelling already owned by the applicant provided the following conditions are met:

(i) The initial interest credit will be granted at the time of loan closing:

(ii) The dwelling is, or will be, occupied by an eligible borrower after the loan is made;

(iii) The amount of the loan may not exceed $10,000, or be amortized for more than 25 years;

(iv) The applicant's adjusted annual income does not exceed $9,000;

(v) The repairs wil be made to bring a substandard dwelling up to the standards outlined in § 1944.16(c); and

(vi) The net worth requirements in paragraph (f)(1)(ii) of this section are met.

(g) *Processing interest credit.*

(1) *General.* The amount of interest credit for which a borrower may be eligible will be determined by use of Form FmHA 444–6 or Form FmHA 444–A6.

(i) *Determination of income.* The County Supervisor is responsible for determining the borrower's annual and adjusted income as defined in § 1944.2, paragraphs (b) and (c) of this Subpart. A borrower interview will be conducted in all cases for granting initial interest credit, and for renewals if, in the County Supervisor's opinion, such an interview is needed to determine the borrower's annual income. Form FmHA 410–5, "Request for Verification of Employment", will be used to verify the earnings from employment of all persons whose income is included in "Annual Income".

(ii) *Effective period.* Interest Credit Agreements on loans made to monthly payment borrowers will be effective for a two-year period. For annual payment borrowers the agreement will be in effect until the second December 31 after the effective date. The effective date will be as indicated on the Forms Manual Insert (FMI).

(iii) *Partial year interest credit.* For an annual payment borrower with an initial installment less than a regular installment, and who will receive less than a full year of interest credit assistance, the interest credit granted will be a pro rata portion calculated on the number of months left in the current calendar year, including the month in which the loan is closed.

(iv) *Advance from the insurance fund.* The repayment schedule for advances made from the Rural Housing Insurance Fund will be computed at the interest rate shown on the promissory note. However, interest will accrue and payments will be applied on the amount advanced at the reduced interest rate in effect at the time of payment.

(v) *Preparation of the transaction record.* For borrowers receiving interest credit, the following changes will be shown on Form FmHA 451–26, "Transaction Record", when prepared by the Finance Office:

(A) Interest rate field. The interest rate field of the form will continue to show the interest rate on the note. The Finance Office will compute the effective interest rate charged the borrower based on the amount of interest credit granted. The computed rate, rounded to the nearest ⅛ of a percent, will be shown as a footnote on the form as "Interest Rate reduced to %". Subsequent transactions will be applied to the loan by the Finance Office at the reduced interest rate until such time as renewal, change, or cancellation occurs.

(B) Daily interest accrual field. The daily interest accrual will be shown at the reduced interest rate and the interest will accrue at the same rate until such time as the interest credit is renewed, changed, or cancelled.

(C) Application of credit field. The initial transaction record form will not have an entry in the "Application of Credit" field. The Interest Credit Transaction Code for this method of processing interest credit will be 4 Z.

(D) Payment status field. The payment status field will not reflect the dollar amount of the interest credit granted. No entry will be made for monthly payment borrowers.

(E) Minimum amount due by date shown field. For annual payment borrowers, the amount of the installment, reduced by the amount of interest credit granted, will be shown. For monthly payment borrowers the word "monthly" will be entered in the space provided.

(2) *Initial and subsequent loans.*

(i) County office action. The County Supervisor will:

(A) Determine the borrower's adjusted annual income and document the calculations in the case file running record.

(B) Enter on Form FmHA 440–1, "Request for Obligation of Funds", the adjusted annual income, the estimated real estate taxes that will become due and payable during the first and second years of the agreement, and the amount of the annual property insurance premium for the dwelling.

(C) For initial loans approved with interest credit and closed under the partial advance feature of the loan disbursement system outlined in Part 1902 Subpart A, further review of the borrower's financial status is not required unless the Interest Credit Agreement will be approved more than 120 days after the last "Verification of Employment", or there is evidence which indicates the borrower's financial status has changed significantly. If prior to approval of the Interest Credit Agreement the County Supervisor finds that the adjusted income has increased, interest credit will be granted on the basis of the borrower's new circumstances. Interest credit will not be granted if the borrower's adjusted income exceeds the limits indicated in Exhibit D of this Subpart.

(D) Complete and submit a corrected Interest Credit Agreement to the Finance Office when the loan is closed, or at the amortization effective date, if the borrower's circumstances have changed so that the amount of interest credit would be increased or decreased by at least $5 monthly or $60 annually.

(ii) Finance office actions. The Finance office will:

(A) Enter the information concerning adjusted annual income, the estimated real estate taxes, and the insurance premium on Form FmHA 440–57, "Acknowledgement of Obligated Funds/ Check Request".

(B) Calculate the amount of interest credit to be granted to the borrower. The amount of interest credit will be determined from the information initially shown on Form FmHA 440–1.

(C) Prepare and mail Form FmHA 444–A6 to the County Office when the final loan check is issued. Upon receipt, the form will be completed and a copy returned to the Finance Office only when indicated on the form.

(D) Prepare and issue payment cards to the County Office.

(3) *Credit sales and transfers.* Interest credit to a borrower who assumes an RH loan or purchases property from inventory will be calculated by the County Office on Form FmHA 444–6. A copy of the form will be forwarded to the Finance Office along with the copy of the promissory note or Assumption Agreement. The Finance Office will issue payment cards to the County Office.

(4) *Existing loans.* Interest credit granted in accordance with paragraph (f) (4) of this section can be processed at any time in the same manner as interest credit on initial loans, except that the County Office will complete Form FmHA 444–6 and calculate the amount of interest credit assistance the borrower will receive. A copy of Form FmHA 444–6 will be used to send interest credit information to the Finance Office. The daily interest accrual will be reduced as of the effective date entered on the form or as of the date the last cash charge or credit was made to the account, whichever is later.

(h) *Interest credit modification.*

(1) *Before expiration.* When approving a change in interest creidt assistance before the expiration of a current Interest Credit Agreement in accordance with paragraph (i)(3) of this section, the County Supervisor will again determine the borrower's adjusted annual income and document the findings in the case file running record. A Form FmHA 444–6 will be completed in accordance with the FMI and a copy of the form will be forwarded to the Finance Office. The Finance Office will adjust the daily interest accrual as of the date entered on the form or as of the date of the last cash charge or credit made to the account, whichever is later.

(2) *Correction of Interest Credit Agreements.* A corrected Interest Credit Agreement will be submitted to the Finance Office when an improper Interest Credit Agreement is cancelled if the borrower is still eligible to receive interest credit, or the borrower appeals the amount of interest credit granted and it is determined that the appeal is valid. In such cases, a Form FmHA 444–6 showing the proper amount of interest credit which the borrower is entitled to receive will be submitted to the Finance Office to replace the incorrect Agreement. The notation "Corrected in accordance with § 1944.34" will be entered on the face of the form. The Finance Office will cancel the incorrect Interest Credit Agreement as of its effective date. Payments made under the previous agreement will be reversed and reapplied at the adjusted interest rate of the new Interest Credit Agreement.

(3) *Interest credit renewal.*

(i) *Initiation of renewal action.* At the beginning of the review period, the Finance Office will mail to the County Office a list (see Exhibit E 1) of borrowers whose Interest Credit Agreements are expiring, together with a package to be mailed by the County Supervisor to each borrower. The package will contain the following:

(A) A letter of explanation and the instructions for completing the Interest Credit Agreement (Exhibit E of this Subpart).

(B) Form FmHA 444–A6 (3 parts with carbon interleaved).

(C) Two Forms FmHA 410–A5, "Request for Verification of Employment". The County Office name and address will be preprinted in the space provided.

(D) Three window envelopes to be used by the borrower in mailing Interest Credit Agreements to the County Office, and for the employer to mail the Verification of Employment form to the County Office.

(ii) *Borrower responsibility.* Upon receipt of the package, the borrower will give one copy of the Verification of Employment form to the employer or employers of each member of the household who has income to be considered. A window envelope will be provided each employer to facilitate the mailing of the Verification of Employment form directly to the County Office. The borrower will also complete part 2 of the Interest Credit Agreement form (leaving carbon intact), sign the original form and mail the original and all copies to the County Office.

(iii) *County office actions.* The County Supervisor will:

(A) Maintain the list of borrowers (See Exhibit E–1 of this Subpart) as a record of Interest Credit Agreements processed and sent to the Finance Office.

(B) Review the information on Form FmHA 444–A6 and FmHA 410–A5 for completeness and accuracy. Interviews with borrowers should be scheduled if the borrower needs assistance in

completing the form or provides incomplete or apparently inaccurate information.

(C) Determine the adjusted annual income and document the calculations in the case file running record.

(D) Complete the Interest Credit Agreement and send a copy of the Agreement to the Finance Office. If the borrower is not eligible for interest credit, enter "0" in the block (s) which indicates the amount the payment will be reduced.

(E) If the Form FmHA 444–A6 is mutilated or unusable, transfer *all* information preprinted on the form to a new Form FmHA 444–6 to be signed by the borrower and submit the completed form to the Finance Office.

(F) Retain the original of the Interest Credit Agreement and return the other copy to the borrower.

(G) Notify by letter borrowers not eligible for continued interest credit of the amount of their revised payments. The letter must notify the borrower of the right to appeal as outlined in § 1944.34 (1). A new Form FmHA 440–9, "Supplementary Payment Agreement", will be obtained when needed.

(iv) *Finance office actions.* The Finance Office will:

(A) Upon receipt of Form FmHA 444–A6 from the County Office, send the borrower or the County Office a new set of payment cards.

(B) Before the end of the review period, send the County Office a list of annual payment borrowers (Exhibit E–2 of this Subpart) for whom a renewal Interest Credit Agreement has not been received. The County Office staff will place a checkmark in the appropriate column of the list to indicate those borrowers who are no longer eligible for interest credit or whose agreements will not be renewed. The original of the completed list will be retained in the County Office and a copy returned to the Finance Office.

(v) *Processing interest credit renewals not received during the review period.* The County Supervisor may approve interest credit renewals not completed during the review period. They will be handled as follows:

(A) The amount of interest credit assistance granted will be based on the borrower's planned annual income during the first year of the Agreement. The Effective date of the Interest Credit Agreement will be as indicated on the FMI for the form.

(B) Payments made by the borrower after the expiration date of the previous Interest Credit Agreement will be applied at the note interest rate until the Finance Office receives a new Form FmHA 444–6.

(C) Upon receipt of Form FmHA 444–6, the Finance Office will reduce the daily interest accrued in accordance with the following conditions and limitations:

(*1*) If failure to renew during the review period was due to the borrower's failure to furnish required information, the Finance Office will reduce the daily interest accrual as of the effective date entered on the form or as of the date of the last cash charge or credit made to the account, whichever is later.

(*2*) If failure to renew was due to error or oversight by the County Office, the State Director will authorize the Finance Office to reduce the interest accrual as of the effective date entered on the form and reverse and reapply payments processed after effective date. Such authorization must be in writing. The State Director will take appropriate action to avoid recurrence of such processing delays.

(i) *Eligibility Review.* The eligibility of those borrowers currently receiving interest credit will be reviewed as follows:

(1) *Biennial review.* The eligibility of all borrowers will be redetermined biennially during the review period.

(i) If the borrower's net worth increases above the applicable eligibility limit, interest credit may nevertheless be renewed unless the increase is sufficient to enable the borrower to graduate to another source of credit.

(ii) If the borrower's adjusted annual income increases beyond the low income limits in Exhibit C, interest credit may be renewed if:

(A) The amount of interest credit for which the borrower qualifies exceeds $5 monthly or $60 annually, and

(B) The borrower's adjusted annual income does not exceed the moderate-income limit established for the State as shown in Exhibit D of this Subpart.

(iii) Interest credit will not be renewed if the borrower has enlarged the dwelling or added related facilities so that the housing *substantially* exceeds modest standards for size, design, and cost, as compared to other housing in the locality for low and moderate income families.

(2) *Renewals not completed during the review period.* When the borrower's renewal Interest Credit Agreement is not completed during the review period, it will be processed in accordance with paragraph 1944.34(h) (3)(v).

(3) *Substantial change in borrower's circumstances.* The county Supervisor is not responsible for monitoring whether a borrower's income, family size, real estate taxes, or insurance costs have changed after an Interest Credit Agreement is approved. If, however, it becomes known that the borrower's circumstances have changed so that the amount of interest credit assistance the borrower is eligible to receive has substantially increased or decreased, the County Supervisor will take action in accordance with the following:

(i) *Increased income or decreased expense.* If the County Supervisor determines that the borrower's income exceeds the applicable moderate income limit in Exhibit D, or that the amount of interest credit for which the borrower qualifies is $5 or less per month or $60 or less per year, interest credit will be cancelled in accordance with 1944.34 (k). Otherwise, no action will be taken on the changed circumstances until the next review period.

(ii) *Decreased income or increased expense.* Changes in interest credit may be approved at any time if the amount of interest credit the borrower is eligible to receive is increased by at least $15 per month or $180 per year, and the County Supervisor determines that the change is necessary to avoid liquidation of the loan. Otherwise, no action will be taken on the changed circumstances until the next review period. Cases involving marital separation must meet the requirements of paragraph (f) (4) (iii) before existing interest credit can be increased.

(j) *Improper interest credit.*

(1) *When to take action.* Servicing under this section will be taken when incorrect information provided by a borrower or any other person or an error by the County Supervisor or any other FmHA employee results in the borrower receiving excessive interest credit of more than $5 per month or $60 annually.

(2) *Determining improper interest credit.* Whenever there is a reason to believe a borrower was granted improper interest credit the county Supervisor will immediately reverify the information on which the interest credit was based. The complete case file together with all facts will be submitted to the State Director. If the State Director believes there is indication of fraud or fiscal irregularity, further investigation will be considered as provided in Subpart B of Part 2012 (available in an FmHA office). If there is no indication of fraud or fiscal irregularity the case will be returned to the County Supervisor for appropriate corrective action.

(3) *Falsification or error by borrower.* The following actions will be taken when it is determined that excessive interest credit was granted because the borrower intentionally or otherwise provided incorrect information.

(i) The County Supervisor will inform the borrower by certified mail (return receipt requested) of the intent to cancel the Interest Credit Agreement and the effective date of such cancellation, as provided in § 1900.53 of Subpart B, Part 1900 and § 1910.6 of Subpart A, Part 1910. The borrower will also be informed of the amount of monthly payment required after proper corrections are made. A corrected Interest Credit Agreement will be prepared if the borrower remains eligible for a reduced amount of interest credit.

(ii) If the borrower does not appeal, or it is determined that the appeal is not valid, the case will be handled by one of the following methods:

(A) The State Director will request the Finance Office to cancel the Interest Credit Agreement as of the effective date of the current Form FmHA 444–6 or earlier Form FmHA 444–6 involved in the period of review or investigation. The Finance Office will then reapply any payment to the account at the note rate of interest or at the rate of the corrected Interest Credit Agreement and will notify the County Supervisor and borrower of any adjustment made in the account.

(B) If the borrower's action appears to have been deliberate and a major error occurred, liquidation may be warranted. For example, such actions may be taken if the information obtained indicates that the borrower was not eligible for an RH loan. Such a borrower will be asked to repay the RH loan by refinancing or otherwise satisfying the account. In other cases, the borrower may already be in default and the fact that the borrower had not correctly reported income may justify liquidation of the loan. The State Director may authorize the account to be repaid under an acceleration agreement if the conditions of § 1872.17 (g) of this Chapter (FmHA Instruction 465.1 paragraph XVII G) are met.

(C) When falsified information is provided to FmHA in order to qualify the borrower for interest credit (for example, a packager who provides information for a borrower), but there is evidence that the borrower is not at fault or definitely did not intend to provide false information, the borrower will be requested to pay the loan in full, including any improper and excessive interest credit that may have been granted. If, however, the borrower is unable to satisfy the account and the State Director determines that the Government's financial interest would not be jeopardized by leaving the loan outstanding, and that it would be inequitable to call it, the loan may be continued.

(D) In cases for which immediate liquidation is not warranted and the State Director determines the loan may be continued, the County Supervisor will make a diligent effort to obtain a lump sum restitution of the improperly advanced interest credit. If the borrower refuses lump sum payment but can repay over a reasonable period of time, Form FmHA 451–37 will be used to establish a new repayment schedule. The borrower will be charged interest on the improperly advanced interest credit at the same rate charged on the principal indebtedness. If the borrower cannot or will not comply with either type of repayment the amount of improper interest credit will be charged to the borrower's account and will be payable in accordance with the terms of the promissory note.

(4) *Error by FmHA employee.* When the borrower presented correct information and an FmHA employee erroneously granted excessive credit, the following action will be taken:

(i) The County Supervisor will inform the borrower by letter of the action to be taken and of the right to appeal as provided in paragraph (1) of this section.

(ii) If the borrower does not appeal or it is determined that the appeal is not valid, the County Supervisor will request the Finance Office to cancel the Interest Credit Agreement as of the effective date of the current Form FmHA 444–6, or earlier Form FmHA 444–6, involved in the period of review or investigation. The Finance Office will then reapply any payments made on the account during the period in which incorrect interest credit was granted. Interest will be charged at the note rate or at the corrected interest credit rate as provided in paragraph (h)(2) of this section. The amount of improper interest credit will be charged to the borrower's account and become immediately due and payable. The County Supervisor and borrower will be notifed of adjustments made in the account.

(iii) If the Interest Credit Agreement is cancelled, the County Supervisor will make a diligent effort to obtain a lump sum restitution of the improperly advanced interest credit from the borrower. If this cannot be done, the County Supervisor will take one of the following courses of action:

(A) If the borrower can repay the improperly advanced interest credit over a reasonable period of time, the County Supervisor will use Form FmHA 451–37 to establish a new repayment schedule. The borrower will be charged interest on the improperly advanced interest credit at the same rate charged on the principal indebtedness.

(B) If the County Supervisor determines that the borrower is unable to repay the improperly granted interest credit, that fact should be documented and the case forwarded to the State Director for review. If the State Director concurs with the findings of the County Supervisor, the case will be forwarded to the National Office with recommendations that the improperly advanced interest credit be forgiven.

(k) *Cancellation of interest credit agreements.*

(l) *Reasons for cancellation.* An existing Interest Credit Agreement will be cancelled whenever:

(i) The borrower has never occupied the dwelling and FmHA will not continue with the loan.

(ii) The borrower ceases to occupy the dwelling.

(iii) The borrower sells or conveys the title to the property.

(iv) The borrower has a substantial increase in income and is clearly able to repay the loan without interest credit.

(2) *Effective date of cancellation.* The effective date of cancellation for paragraph (k)(l)(i) of this section will be date of loan closing. The effective date of cancellation for paragraphs (k)(l), (ii), (iii) and (iv) of this section will be the date on which the earliest action occurs which causes the cancellation. If the date cannot be determined, the date on which the County Supervisor became aware of the situation will be used. When foreclosure action is being taken against a borrower and none of the conditions outlined in paragraph (k)(l) of this section exist, the Interest Credit Agreement will remain in effect until the final foreclosure action is completed. However, if the existing agreement expires before the foreclosure case is referred to the U.S. Attorney, an interest credit renewal will be prepared in accordance with paragraph (h)(3) of this section. If the interest credit agreement expires after the case is referred to the U.S. Attorney, further interest credit will not be granted.

(3) *Notification to the Finance Office.* The County Supervisor will determine the date of cancellation and notify the Finance Office on Form FmHA 444–15, "Interest Credit Agreement Cancellation (Section 502 RH Loans)." The Finance Office will process the cancellation and will accrue interest from the date of cancellation at the rate of interest shown on the promissory note. Prompt notification to the Finance Office, using Form 444–15, is extremely important, as any transaction affecting the borrower's account subsequent to cancellation will be incorrect if cancellation action has

not been completed by the Finance Office.

(l) *Applicant or borrower notice of right to appeal.* All applicants or borrowers who request and are denied interest credit or whose interest credits are reduced, cancelled, or not renewed, will be notified of their appeal rights as required by § 1900.53 Part 1900 Subpart B except when:

(1) Interest credit is denied because confirmed income is above published limits, or

(2) Interest credit is reduced because of acknowledged income increases.

(m) *Submission to National Office.* The State Director may submit to the National Office for determination by the Administrator or a delegate any proposed transaction in which the conditions prescribed in the foregoing paragraphs of this section cannot be met, and it is determined that interest credit is necessary to avoid extreme hardship to the family or prevent foreclosure action. This paragraph is primarily intended to be used for those cases in which the granting of interest credit is necessary for the borrower to retain a dwelling for the borrower's own use, and there are no other means to do so. The State Director will submit to the National Office the County Office files together with full facts, justification, and recommendation.

§§ 1944.35–1944.36 [Reserved]

§ 1934.37 Subsequent section 502 loans.

Subsequent Section 502 loans may be made to present borrowers for the same purpose and under the same conditions and limitations as initial loans, except as provided in this section.

(a) The subsequent loan will be processed in the same manner as initial loans, except that a new appraisal report will be required in accordance with § 1944.24, only when real estate will be taken as security and at least one of the following conditions exists:

(1) The property was not appraised in connection with the initial loan.

(2) The latest appraisal report of the real estate is over two years old.

(3) The physical characteristics of the property have changed significantly.

(4) The County Supervisor or loan approval official requests a new appraisal report.

(b) A subsequent RH loan may be made on note-only basis, provided the amount of the subsequent loan plus the unpaid principal balance of any prior note-only RH loan or loans does not exceed $2,500.

(c) When a real estate mortgage is required in connection with a subsequent RH loan, any outstanding RH notes will be described in the mortgage unless an exception can be made in accordance with Part 1807, of this Chapter (Exhibit A, paragraph II F of FmHA Instruction 427.1).

(d) The subsequent loan will bear interest at a rate determined in accordance with Exhibit B of FmHA Instruction 440.1 (available in any FmHA office).

(e) When necessary to settle a divorce action, a subsequent loan may be made to permit the remaining borrower, if eligible, to obtain a loan to purchase the equity of the remaining spouse.

(f) In cases where a subsequent loan is necessary to correct safety and sanitation or construction defects, principal payments on the subsequent loan may be deferred for a reasonable period of time under the following conditions:

(1) Any deferral will be approved individually by the Administrator.

(2) At the end of the deferral period, the princial balance will be amortized over the remaining period of the loan.

(3) The Administrator determines that the borrower would be unable to meet the full payments, with interest credit, on both the outstanding loan(s) and the proposed subsequent loan.

(4) The Administrator determines that the borrower can fully repay the loan with interest if the payment of principal on the subsequent loan is deferred for a reasonable period of time.

(5) Any loan for which repayment is deferred must be secured by at least the best mortgage obtainable on the property imporved with the loan.

(g) When an area designation has been changed from rural to non-rural, subsequent RH loans may be made only in accordance with the provisions of § 1944.10(g)(4).

(h) The initial RH loan may be reamortized with the prior authorization of the District Director Authority to reamortize an account will be granted in those cases in which it is determined that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized. It will be processed in accordance with § 1951.20 or § 1951.40 of Part 1951 Subpart A.

§ 1944.38 Mutual self-help housing loans.

Applicants who are unable to build modest dwellings by contract or borrower methods, because of limited income and repayment ability, may build their homes by participating in a mutual self-help housing project. The County Supervisor will not approve RH loans or proceed in the development of a self-help project without prior authorization of the State Director. If an organization applies for a Technical Assistance (TA) grant, the District Director will submit Form AD–625, "Application for Federal Assistnace (Short Form)", and all related information concerning the technical assistance grant to the State Director. If it is determined that the technical assistance grant has been approved for funding, the State Director may issue written authorization for the County Supervisor to approve Mutual Self-Help Housing loans. Exhibit F, "Mutual Self-Help Housing Guidelines", will be used as a gude for developing self-help projects and counseling with participating families. The County Supervisor, in counseling with families participating in self-help housing projects, will determine the anticipated time required for construction.

§ 1944.39 RH loans to FmHA employees and loan closing officials.

FmHA employees, County Committee members, and loan-closing officials, or their spouses may receive a Section 502 RH loan subject to the provisions of this Subpart and the following conditions:

(a) The application will be submitted to the County Office in the usual manner. Written evidence indicating the applicant's inability to obtain the needed credit will be included. The County Office will obtain the verification of employment and credit report and submit the application and related information to the District Director for review. The District Director will forward the applicant's docket, along with written recommendation concerning the applicant's eligibility, to the State Director for eligibility determination.

(b) The State Director will determine the eligibility of the applicant. If eligible, the docket will be returned to the District Director for processing. If the applicant is determined ineligible, the State Director will notify the applicant in writing and will provide the applicant all information required by § 1910.6(b) of Part 1910 Subpart A.

(c) The application will be retained in the County Office and will be processed in the same order as other applications. The District Director will be notified when the application is in order for processing and will be responsible for the complete loan processing.

(d) If the loan applicant works outside the county in which the application is filed, the District Director may permit authorized County Office staff to perform the appaisal function. In all other cases the District Director will appraise the property or have it appraised by a qualified FmHA appraiser from outside the County

Office area in which the loan is to be made. The completed loan docket together with the District Director's written recommendation will be submitted to the State Director for consideration of approval.

(e) If the applicant is an employee in the District Office, the State director will designate another District Director to process the applications.

(f) The State Director must, before approving the loan, determine that the applicant has not been and will not be given any advantage because of the FmHA relationship and the making of a loan will not result in a conflict of interest under FmHA Instruction 2045–BB (available in any FmHA office). The dwelling may not exceed the needs of the applicant to other FmHA financed dwellings in the area.

(g) If the loan is approved, the borrower's case file will be maintained in the District Office and the loan will be serviced by the District Director. In cases where the District Director is absent or where the loan was made to a member of the District Office staff, the State Director will designate a member of the State Office staff to service the loan.

(h) If the loan involves any type of construction, the inspections for FmHA will be made by the District Director or another member of the District Director's staff as designated by the District Director. Under no circumstances will the employee receiving the loan make the inspections for FmHA.

(i) Loans, credit sales, or assumption agreements *will not* be approved under this authority for any of the following purposes:

(1) Purchase of inventory property.

(2) Purchase of a dwelling from a RH borrower.

(3) Purchase of FmHA security property being sold at foreclosure sale.

§ 1944.40 Rural housing disaster loans.

RHD loans may be made to repair or replace dwellings which were damaged or destroyed by a natural disaster such as earthquake, flood, forest fire, severe windstorm, or lightning.

(a) *Elibibility requirements.*

(1) The applicant must meet the requirements of § 1944.8 and .9 of this Subpart.

(2) Nonfarm applicants must have occupied the dwelling as their permanent residence.

(3) The loss by a nonfarm applicant was not the result of a major disaster designated by the President or a natural disaster designated by the Administrator of the Small Business Administration.

(4) The loss by a farmer was not the result of a major disaster designated by the President or a natural disaster designated by the Secretary of Agriculture.

(5) The loan application must be filed within 12 months after the date the loss occurred.

(6) The applicant must use available assets, including insurance loss payments, and other assistance, to the extent available, to repair or replace the damaged or destroyed buildings.

(b) *Repair or replacement of buildings.* Repair or replacement of any damaged or destroyed building must be consistent with the basic Section 502 loan policies. Changes may be made in the building, but in any case the repaired or replaced building should not be significantly larger or more costly than the original building except as necessary to provide a building which is adequate but modest. Any new dwelling constructed must meet the limitations established by § 1944.16 of this Subpart.

(c) *Interest rate and source of funds.*

(1) RHD loans will be made at an interest rate of 5 percent.

(2) Insured loan funds will be used for RHD loans.

(d) *Approval authorization.* The State Director, County and Assistant County Supervisors are authorized to approve RHD loans in accordance with FmHA Instruction 1901–A (available in any FmHA office) for Section 502 RH loans.

(e) *Deferred payments.* The initial payments of principal and interest, or principal only, may be deferred so as not to become due until as late as the third January 1 for annual payment notes, or the third anniversary date of the note for monthly payment notes, subject to all of the following conditions:

(1) The applicant, as a result of the loss suffered from the disaster, has had a substantial loss of income; or debts, including the proposed RHD loan, have increased substantially as a result of the disaster.

(2) The income loss or increase in debts must be sufficiently great so that the applicant will not likely be able to pay in full the installments that ordinarily would be due during the proposed deferment period and also meet other obligations.

(3) The applicant's other debts must be adjusted by reduction, reamortization, extension, or other means to the extent possible by negotiation with other creditors.

(4) The applicant's income will be sufficient after the deferment period to enable the applicant to meet the payments on the RHD loan and all other obligations.

(f) *Form FmHA 440–1.* The appropriate assistance code number will be entered in the space provided to indicate the nature of the loss.

§§ 1944.41–1944.43 [Reserved]

§ 1944.44 Refinancing RH loans.

Borrowers will be requested to apply for refinancing of RH loans if credit may be available from another source at rates and terms prevailing in the area for homeownership loans. The borrower must apply for and, if approved by the lender, accept the refinancing loan. Graduation reviews will be conducted in accordance with Part 1865, of this Chapter (FmHA Instruction 451.6).

§ 1944.45 Conditional commitments.

(a) *General.* A conditional commitment is assurance from FmHA to a qualified builder or seller that dwellings to be built or rehabilitated and offered for sale, will be acceptable for purchase by qualified RH loan applicants if built in accordance with FmHA approved plans and specifications and priced at not more than a specified maximum amount. The conditional commitment does not reserve funds for a loan nor does it assure that a loan applicant will be available to buy the dwelling.

(b) *Eligibility:* To be eligible for conditional commitments, the builder or seller must:

(1) Be the owner as defined in § 1944.15, before construction is started, of the site on which the dwelling is located or to be built, except as indicated in Part 1822, Subpart G (paragraph VIII of FmHA Instruction 444.8).

(2) Have the experience and ability to complete the type of proposed work in a competent and workmanlike manner.

(3) Be financially responsible and have the ability to finance or obtain financing for the proposed housing or rehabilitation.

(4) Agree to certify that there will be no discrimination in the sale of the dwellings.

(5) Plan to build or rehabilitate dwellings which will qualify for purchase by RH applicants and which will be in compliance with all applicable laws, ordinances, and codes.

(6) Have the legal capacity to enter into the required agreements and the actual capacity to carry them out.

(c) *Limitations:*

(1) Conditional commitments will be issued only in cases where the commitment applicant's selling price does not exceed the commitment price, which will never be more than the appraised value minus customary closing costs.

(2) Conditional commitments will be issued by FmHA only for new homes to be constructed or existing homes to be rehabilitated. The commitment applicant must provide plans, specifications, and other information required by Form FmHA 422–8.

(3) Conditional commitments will not be issued after construction has started.

(4) Number of conditional commitments.

(i) The total number of commitments issued in any locality will not exceed the number of homes for which there is an immediate and ready market in that locality.

(ii) The number of houses on which conditional commitments will be outstanding to a commitment applicant at any time will not exceed 15 in any one county unless authorized by the State Director after the State Director.

(A) Determines that a larger number of commitments must be made to meet the immediate housing needs in the area;

(B) Determines that authorizing more than 15 commitments to one commitment applicant will not reduce the participation of small volume builders in the rural Housing program; and

(C) Provides guidelines to the County Supervisor to assure that all builders active in the area have equal opportunity to obtain more than 15 conditional commitments.

(iii) The total number of conditional commitments outstanding in the area served by a County Office will not exceed the number on which the County Supervisor can reasonably expect to be able to approve RH loans within 3 months after the houses covered by the commitments are completed, considering the availability of loan funds and the number of applications in the County Office.

(5) The period of the conditional commitment will be for 12 months from the date of issue. the commitment may be extended for an additional 6 months if justified because of (i) unexpected delays in construction caused by such factors as bad weather or materials shortages, or (ii) marketing difficulties.

(d) *Conditional commitments involving packaging of applications:* A conditional commitment may be made to a builder who packages a Rural Housing application for an applicant to buy the property. In cases when the dwelling is presold and is to be constructed for sale only to a specific applicant and the information on the house and the loan applicant is submitted at the same time, all of the following conditions must be met to avoid misunderstanding of FmHA's obligation to either the RH applicant or the conditional commitment applicant:

(1) The conditional commitment will not be approved until the RH loan has been approved.

(2) Construction will not begin until the County Office has received notice from the Finance Office that funds are obligated for the RH loan.

(3) The RH loan will be closed only after the dwelling is constructed or the rehabilitation completed and final inspection has been made.

(e) *Fees:* Each commitment applicant will pay an application fee at the time an application is submitted for a conditional commitment. The fee for each dwelling will be:

(1) For proposed construction of new dwellings—$65.

(2) For existing dwellings to be rehabilitated—$50.

(f) *Processing applications:*

(1) The application will be in the form of a letter which must include the following information:

(i) Number of dwellings for which commitments are being requested.

(ii) Number of previous FmHA commitments on dwellings that are unsold as of the date of application.

(iii) A narrative description of the type and location of the dwellings to be built or rehabilitated.

(iv) Form FmHA 422–8, for each dwelling. The applicant must complete Part I of the form and include the attachments specified in the form.

(v) Application fee.

(2) *Transmittal of fees.* The County Supervisor will transmit application fees on Form FmHA 451–2, "Schedule of Remittances". The payment will be handled with all other payments for the day in accordance with Part 1862 of this Chapter (FmHA Instruction 451.2) and the FMI for Form FmHA 451–2.

(3) *Evaluation of applications.* The County Supervisor will take the following actions in the order specified:

(i) Determine whether the commitment applicant meets the requirements of paragraphs (b) and (c) of this section.

(ii) Determine whether the dwelling and site meet the requirements of this Subpart and Subpart A, Part 1804 (FmHA Instructions 424.1), and will comply with all local codes and ordinances. When the property is located in a subdivision, the subdivision must meet the requirements of Part 1804, Subpart D (FmHA Instruction 424.5).

(iii) If the commitment applicant and the dwelling and site have qualified, an appraisal will be made in accordance with FmHA Instruction 422.3 (available in any FmHA office).

(4) *Failure of applicant or dwelling to qualify.* In case any commitment applicant or dwelling does not qualify for a conditional commitment, the documents attached to the letter of application will be returned to the commitment applicant with a letter explaining why the application was not approved. If the application is denied for failure to meet the requirements of paragraph (b)(2) or (3) of this section, notice of appeal rights will be given as required by § 1900.53, Part 1900, Subpart B.

(i) The application fee will be refunded if for any reason preliminary inspection of the property or investigation of the commitment applicant indicates that a conditional commitment cannot be issued. For example, the property might be located in a nonrural area or the dwellings may not be of a type that the FmHA can appropriately finance. If a refund is required, a memorandum should be sent to the Finance Office indicating the commitment applicant's name together with the date and amount of fees paid. The memorandum should also indicate the number of commitments being denied and amount of fees to be refunded.

(ii) Application fees will not be refunded for any property on which the appraisal has been made.

(5) *Conditional commitment approval.* The State Director, District Director, County and Assistant County Supervisors are authorized to approve conditional commitments provided the commitment price does not exceed the loan approval authority for Section 502 RH loans as outlined in Subpart A, Part 1901, (available in any FmHA office). If the application is approved, the County Supervisor will complete and sign Form FmHA 444–11 "Conditional Commitment". When a qualified applicant applies for a loan to buy a dwelling on which a conditional commitment has been issued, the commitment documents will be transferred to the RH loan docket.

(g) *Inspections.* Inspections of work to be done will be performed in accordance with Subpart A, Part 1804 (FmHA Instruction 424.1). The original and one copy of Form FmHA 424–12, "Inspection Report", will be prepared. The County Supervisor will give the commitment applicant the original of Form FmHA 424–12 and the copy will be retained in the County Office case file. Failure to correct any deficiencies or to complete the work in accordance with plans and specifications approved by FmHA will be a basis for cancelling the conditional commitment.

(h) *Changes in plans, specifications, and/or commitment price.* The County Supervisor is authorized to approve

changes in plans and specifications that are conistent with good construction practices. If the changes are requested after an option has been executed by a rural housing applicant, the change will be approved only after the applicant submits a written request for approval. If a change will reduce or increase the appraised value of the property, the County Supervisor will revise the commitment price and inform the commitment applicant. Also, in cases when the holder of a commitment reports to the County Supervisor that costs associated with the construction or repair of a dwelling have increased, the approval official may increase the commitment price provided the property has not been optioned by an RH applicant, and the County Supervisor determines that the increase is clearly justified, the circumstances causing the price increase were beyond the commitment applicant's control, and the value of the property is adequate to permit the increased commitment price. A revised appraisal report will be prepared. The conditional commitment will be revised, initialed, and dated by the person authorizing the change.

(i) *Cancellation of outstanding conditional commitments.*

(1) Conditional commitments may be cancelled when construction of the dwelling is not begun within 60 days after the commitment is issued.

(2) Conditional commitments will be cancelled when construction is not in accordance with all FmHA requirements, approved plans, specifications, or MPS, and the builder refuses to make corrections necessary for compliance.

(j) *Folder maintenance.* Documents prescribed in this Subpart will be filed in accordance with FmHA Instruction 2033–A (available at any FmHA office).

(k) *Builder's warranty.* The builder or seller, as appropriate, will execute Form FmHA 424–19, "Builder's Warranty", or provide a 10 year insured warranty when the loan to buy the dwelling is closed.

§ 1944.46 Construction financing for builders by private sources of credit.

(a) The purpose of this section is to provide a method by which a builder may be able to obtain construction credit from commercial sources of credit. It may eliminate the need to use a supervised bank account and also eliminate the need for the borrower to make payments on the loan during construction.

(b) This method may be used under the following conditions:

(1) A conditional commitment has been or will be issued, an RH loan approved, and funds obligated for the applicant in accordance with § 1994.45, or

(2) The applicant owns a building site and will contract the construction or improvement of the building or buildings. In such a case:

(i) The applicant will retain ownership of the site and not convey title to the builder, and

(ii) The lender providing the construction financing will not take a mortgage on the site owned by the applicant or otherwise require the applicant to secure the construction loan.

(c) This method may not be used if the RH loan is made in participation with an FO or an individual SW loan.

(d) Loan docket forms will be prepared in accordance with § 1944.30 of this Subpart. Applicants who own the building site will be required to obtain and submit to the County Supervisor preliminary title evidence in accordance with Part 1807 (FmHA Instruction 427.1). Satisfactory title or leasehold interest in the property must be confirmed before execution of Form FmHA 424–6, "Construction Contract" (available in all County Offices), and Form FmHA 444–16, "Notice of Loan Approval".

(e) When the processed original of Form FmHA 440–1, is received from the Finance Office, the County Supervisor will complete and sign an original and one copy of Form FmHA 444–16. The original of Form FmHA 444–16 will be given to the builder and a copy will be retained in the loan docket.

(f) The builder may present Form FmHA 444–16, Form FmHA 444–11, FmHA 440–34, or FmHA 424–6, as appropriate, to a commercial lender to obtain construction financing. The County Supervisor will make no commitments to the lender except as indicated on the above forms.

(g) The required inspections will be made by FmHA or a firm or company that will provide a 10 year insured warranty. In all cases the final inspection will be made by FmHA. Copies of Form FmHA 424–12, will be provided to the builder and, if requested, to the commercial lender.

(h) The lender is responsible for determining the amount that will be advanced to the builder under the construction financing arrangement, and for determining any measures necessary to protect its interest.

(i) When construction is completed, the loan will be closed in accordance with Part 1807 of Subpart A of this Chapter (FmHA Instruction 427.1), usually within 10 days after satisfactory completion of construction.

§§ 1944.47–1944.49 [Reserved]

Exhibit A.—Rural Areas of 10,000 to 20,000 Population

I. *Purpose.* This Exhibit lists those areas which are eligible for Farmers Home Administration (FmHA) housing programs as rural areas which have populations in excess of 10,000 but not in excess of 20,000, are not part of or associated with an urban area, are not located in a Standard Metropolitan Statistical Area (SMSA), and have a serious lack of mortgage credit for low- and moderate-income families as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development. State Directors are authorized to identify by list and maps the eligible areas in appropriate State Supplements issued in accordance with § 1944.3 (s) (4) of Subpart A.

II. *Eligible Areas.* The areas eligible for FmHA assistance by State are:

Alabama: Alexander City, Andalusia, Cullman, Enterprise, Ozark, Sylacauga, Talladega, Troy, Tuskegee.

Arizona: Casa Grande, Douglas, Prescott.

Arkansas: Camden, Conway, Forrest City, Magnolia, Paragould, Russellville, Searcy, Stuttgart.

California: Arcata, Atwater, Brawley, Calexico, Hanford, Madera, Oroville, Paradise, Porterville, Tulare, Ukiah.

Colorado: Canon City-East Canon City, Durango, Sterling.

Connecticut: Willimantic.

Florida: Lake City, Leesburg, Naples, Port Charlotte, Palatka, Vero Beach-Gifford.

Georgia: Americus, Bainbridge, Carrollton, Cartersville, Cordele, Douglas, Dublin-East Dublin, Moultrie, Newnan, Statesboro, Thomaston, Tifton.

Idaho: Caldwell, Coeur d'Alene, Moscow.

Illinois: Canton, Centralia, Charleston, Dixon, Effingham, Herrin-Energy, Lincoln, Marion, Monmouth, Mt. Vernon, Ottawa, Pontiac, Streator, Taylorville.

Indiana: Bedford, Connersville, Crawfordsville, Frankfort, Goshen, Huntington, Logansport, Madison, Peru, Seymour, Wabash, Washington.

Iowa: Boone, Fort Madison, Keokuk, Newton, Oskaloosa, Spencer.

Kansas: Arkansas City, Atchison, Chanute, Coffeyville, Dodge City, Garden City, Great Bend, Hays, Independence, Liberal, McPherson, Newton, Ottawa, Parsons, Winfield.

Kentucky: Danville, Elizabethtown, Glasgow, Madisonville, Mayfield, Middlesboro, Murray, Richmond, Somerset.

Louisiana: Abbeville, Bastrop, Bogalusa, Crowley, Eunice, Hammond, Jennings, Morgan City, Natchitoches, Ruston, Thibodaux.

Maine: Brunswick, Sanford.

Maryland: Cambridge.

Massachusetts: Gardner, Greenfield, North Adams, Southbridge, Hyannis-West Yarmouth-South Yarmouth-West Dennis-Dennis Port-South Dennis.

Michigan: Alma, Alpena, Big Rapids, Cadillac, Escanaba, Iron Mountain-Kingsford, Niles, Sault Sainte Marie, Traverse City.

Minnesota: Bemidji, Brainerd, Breckenridge, Cloquet, Fairmont, Faribault, Fergus Falls,

Marshall, New Ulm, Northfield, Owatonna, Red Wing, Willmar, Worthington.
Mississippi: Brookhaven, Canton, Cleveland, Corinth, Grenada, McComb, Oxford, Picayune, Starkville, Yazoo City.
Missouri: Carthage, Flat River-Elvins-Desloge-Rivermines-Leddington-Esther, Fulton, Hannibal, Kennett, Kirksville, Marshall, Mexico, Moberly, Poplar Bluff, Rolla, Sikeston, Warrensburg.
Montana: Anaconda, Havre, Kalispell.
Nebraska: Beatrice, Columbus, Kearney, Norfolk, Scottsbluff.
New Hampshire: Berlin, Claremont, Laconia, Rochester.
New Mexico: Artesia, Gallup, Las Vegas, Los Alamos, Portales.
New York: Batavia, Corning, Cortland, Hornell, Massena, Ogdensburg, Olean, Oneonta.
North Carolina: Albemarle, Cherry Point, Eden, Elizabeth City, Henderson, Lenoir, Lumberton, Mt. Airy-Toast-Bannertown, Morganton, New Bern, Reidsville, Roanoke Rapids-Gaston, Sanford, Shelby, Tarboro-Princeville.
North Dakota: Dickinson, Jamestown, Wahpeton, Williston.
Ohio: Bellefontaine, Bucyrus, Cambridge, Conneaut, Coshocton, Defiance, Fostoria, Fremont, Galion, Greenville, Mount Vernon, Norwalk, Salem, Sidney, Washington Court House, Wilmington, Wooster.
Oklahoma: Ada, Chickasha, Duncan, Durant, McAlester, Miami, Okmulgee.
Oregon: Ashland, Astoria, Bend, Grants Pass, La Grande, McMinnville, Pendleton, Roseburg, The Dalles.
Pennsylvania: Athens-Sayre-South Waverly, Berwick, Bloomsburg, Bradford, Chambersburg, Clearfield, Connellsville, DuBois, Elwood City, Franklin, Greenville, Grove City, Indiana, Kulpmont-Mount Carmel-Marion Heights, Lewistown, Lock Haven, Meadville, Oil City, Shamokin, Sunbury, Warren, Waynesboro.
Puerto Rico: Coamo, Fajardo, Guayama, Humacao, Manati, San German, Utuado, Vega Baja, Yauco.
South Carolina: Beaufort, Gaffney, Georgetown, Lancaster, Laurens, Union.
South Dakota: Brookings, Huron, Mitchell, Watertown, Yankton.
Tennessee: Athens, Cookeville, Dyersburg, Greenville, Humboldt, McMinnville, Shelbyville, Tullahoma, Union City.
Texas: Bay City, Beeville, Borger, Brownwood, Eagle Pass, Gainesville, Henderson, Hereford, Kerrville, Lamesa, Levelland, Mineral Wells, Palestine, Pecos, Port Lavaca, Snyder, Sulphur Springs, Sweetwater, Uvalde, Vernon.
Utah: Brigham City.
Vermont: Essex Junction, Montpelier-Barre.
Virgin Islands: Charlotte Amalie.
Virginia: Covington, Harrisonburg, Martinsville, Pulaski, Radford, Waynesboro, Winchester.
Washington: Centralia, Ellensburg, Moses Lake, Mount Vernon, Oak Harbor, Port Angeles.
West Virginia: Martinsburg.
Wisconsin: Beaver Dam, Marshfield, Menomonie, Watertown, Whitewater.
Wyoming: Sheridan.

Exhibit B.—Addresses for Authentication of Alien Registration Cards

This Exhibit lists the addresses of the Immigration and Naturalization Service district offices. To comply with § 1944.9(c) of Subpart A, County Supervisors will request verification of the validity of alien registration cards by writing to the nearest office. Following the list of offices is a sample letter that may be used for authenticating the Alien Registration cards.

A list of these offices follows:

Albany, New York 12207, Post Office and Courthouse, Room 220, 445 Broadway.
Anchorage, Alaska 99501, U.S. Post Office and Courthouse Building, Room 401, 632 W. 6th Avenue.
Atlanta, Georgia 30309, 1430 West Peachtree Street, NW.
Baltimore, Maryland 21201, E. A. Garmatz Federal Building, 100 S. Hanover St.
Boston, Massachusetts 02203, John Fitzgerald Kennedy Federal Building, Government Center.
Buffalo, New York 14202, 68 Court Street.
Chicago, Illinois 60604, Dirksen Federal Office Building, 219 South Dearborn Street.
Cincinnati, Ohio 45201, U.S. Post Office and Courthouse, 5th and Walnut Streets, Post Office Box 537.
Cleveland, Ohio 44199, Anthony J. Clebrezze, Room 1917, Federal Building, 1240 East 9th Street.
Dallas, Texas 75202, Room 1C13, Federal Building, 1100 Commerce Street.
Denver, Colorado 80202, 17027 Federal Office Building.
Detroit, Michigan 48207, Federal Building, 333 Mount Elliott Street.
El Paso, Texas 79984, 343 U.S. Courthouse, Post Office Box 9398.
Hammond, Indiana 46320, 102 Federal Building, 507 State Street.
Hartford, Connecticut 06105, 900 Asylum Avenue.
Helena, Montana 59601, Federal Building, Post Office Box 1724.
Honolulu, Hawaii 96809, 595 Ala Moana Boulevard, Post Office Box 461.
Houston, Texas 77208, Federal Building, U.S. Courthouse, 515 Rusk Avenue, Post Office Box 61630.
Kansas City, Missouri 64106, Suite 1100, 324 E Eleventh Street.
Los Angeles, California 90012, 300 North Los Angeles Street.
Memphis, Tennessee 38104, 814 Federal Building, 167 North Main Street.
Miami, Florida 33130, Room 1324, Federal Building, 51 Southwest First Avenue.
Milwaukee, Wisconsin 53202, Room 186 Federal Building, 517 East Wisconsin Avenue.
Newark, New Jersey 07102, Federal Building, 970 Broad Street.
New Orleans, Louisiana 70113, Postal Services Building, 701 Loyola Avenue.
New York, New York 10007, 26 Federal Plaza.
Norfolk, Virginia 23502, Room 207, Bank of Virginia Building, 870 North Military Highway.
Omaha, Nebraska 68102, Room 1008, Federal Office Building, 106 South 15th Street.
Philadelphia, Pennsylvania 19106, Room 1321 U.S. Courthouse, Independence Mall West, 601 Market Street.
Phoenix, Arixona 85025, Federal Building, 230 North First Avenue.
Pittsburgh, Pennsylvania 15222, 2130 Federal Building, 1000 Liberty Avenue.
Port Isabel, Texas 78566, Rural Route 3, Los Fresnos, Texas
Portland, Maine 04112, 76 Pearl Street
Portland, Oregon 97209, Federal Office Building, 511 N.W. Broadway
Providence, Rhode Island 02903, Federal Building, U.S. Post Office, Exchange Terrace
Reno, Nevada 89502, Suite 150, 350 South Center Street
Saint Albans, Vermont 05478, Federal Building, Post Office Box 591
Saint Louis, Missouri 63101, Room 423, U.S. Courthouse and Customhouse, 1114 Market Street
Saint Paul, Minnesota 55111, Fort Snelling
Salt Lake City, Utah 84138, Room 4103, New Federal Building, 125 South State Street
San Antonio, Texas 78206, Suite A301, U.S. Federal Building, 727 East Durango
San Diego, California 92188, 880 Front Street
San Francisco, California 94111, Appraisers Building, 630 Sansome Street
San Juan, Puerto Rico 00936, U.S. Immigration and Naturalization Service, GPO Box 5068, Hato Rey, Puerto Rico
Seattle, Washington 98134, 815 Airport Way, South
Spokane, Washington 99201, 691 U.S. Courthouse Building
Washington, D.C. 20538, 1025 Vermont Avenue NW.

Sample Letter for Authenticating Alien Registration Cards

To: Immigration and Naturalization Officer

_____

_____

_____

Subject: (Mr.) (and Mrs.) _____

_____

(Passport or alien registration number)

_____

(Address)

(Mr.) (and Mrs.) (Ms.) _____ (has) applied for a Rural Housing loan from the Farmers Home Administration (FmHA). One condition for eligibility of noncitizens is that the applicant has been admitted to the United States for permanent residency or an indefinite parole.

Please advise whether the identified alien registration card is valid and entitles the holder to remain in the United States for permanent residency or an indefinite parole by completing the last paragraph of this letter and signing in the space provided. Attached is a self-addressed franked envelope for returning the information to this office.

Sincerely,

_____

County supervisor, FmHA

_____

County office address

Privacy Act Consent

I have stated to FmHA personnel that I have been admitted to the U.S. (for permanent residency) (on indefinite parole). My signature below authorizes verification of the requested information.

_____

Applicant

Alien Registration Card No. ——— (is) (is not) valid and (does) (does not) entitle the holder to remain in the U.S. (for permanent residency) (on indefinite parole).

Signature

Title
Immigration and Naturalization Service

Exhibit C.—Maximum Adjusted Income for Low-Income Households

State or territory:	*Maximum adjusted income*
Alabama	$1,200
Alaska	16,800
American Samoa	11,200
Arizona	11,200
Arkansas	11,200
California	11,200
Colorado	11,200
Connecticut	11,200
Delaware	11,200
Florida	11,200
Georgia	11,200
Guam	13,700
Hawaii	13,700
Idaho	11,200
Illinois	11,200
Indiana	11,200
Iowa	11,200
Kansas	11,200
Kentucky	11,200
Louisiana	11,200
Maine	11,200
Mariana Islands	11,200
Maryland	11,200
Massachusetts	11,200
Michigan	11,200
Minnesota	11,200
Mississippi	11,200
Missouri	11,200
Montana	11,200
Nebraska	11,200
Nevada	11,200
New Hampshire	11,200
New Jersey	11,200
New Mexico	11,200
New York	11,200
North Carolina	11,200
North Dakota	11,200
Ohio	11,200
Oklahoma	11,200
Oregon	11,200
Pennsylvania	11,200
Puerto Rico	11,200
Rhode Island	11,200
South Carolina	11,200
South Dakota	11,200
Tennessee	11,200
Texas	11,200
Trust Territory of Pacific Islands	11,200
Utah	11,200
Vermont	11,200
Viriginia	11,200
Virgin Islands	11,200
Washington	11,200
West Virginia	11,200
Wisconsin	11,200
Wyoming	11,200

Exhibit D.—Maximum Adjusted Income for Moderate-Income Households

State or territory:	*Maximum adjusted income*
Alabama	$15,600
Alaska	23,400
American Samoa	15,600
Arizona	15,600
Arkansas	15,600
California	15,600
Colorado	15,600
Connecticut	15,600
Delaware	15,600
Florida	15,600
Georgia	15,600
Guam	18,500
Hawaii	18,500
Idaho	15,600
Illinois	15,600
Indiana	15,600
Iowa	15,600
Kansas	15,600
Kentucky	15,600
Louisiana	15,600
Maine	15,600
Mariana Islands	15,600
Maryland	15,600
Massachusetts	15,600
Michigan	15,600
Minnesota	15,600
Mississippi	15,600
Missouri	15,600
Montana	15,600
Nebraska	15,600
New Hampshire	15,600
New Jersey	15,600
New Mexico	15,600
New York	15,600
North Carolina	15,600
North Dakota	15,600
Ohio	15,600
Oklahoma	15,600
Oregon	15,600
Pennsylvania	15,600
Puerto Rico	15,600
Rhode Island	15,600
South Carolina	15,600
South Dakota	15,600
Tennessee	15,600
Texas	15,600
Trust Territory of Pacific Islands	15,600
Utah	15,600
Vermont	15,600
Viriginia	15,600
Virgin Islands	15,600
Washington	15,600
West Virginia	15,600
Wisconsin	15,600
Wyoming	15,600

Exhibit E

Interest Credit Agreement Renewal

Dear FmHA Borrower:

The Interest Credit Agreement you signed, reducing the effective interest rate on your Rural Housing loan, expires soon. To determine whether you are eligible to continue to receive a reduction in your housing loan payment, we will need information about:

1. Your income and the income of others who live or propose to live in the dwelling during the next 12 months. You should report *all* income to be received from employment, including overtime pay, bonuses, commissions, tips, etc. You should also include *all* income to be received from other sources such as unemployment benefits, workman's compensation, disability income, pensions, veteran's benefits, social security, child support, alimony, welfare payments, and any other source.

2. The ages and relationship to you of others who live or propose to live in your dwelling.

3. The amount of real estate taxes paid by you on your dwelling last year reduced by any tax exemptions available but not taken.

4. The amount you pay each year for fire or hazard insurance on your dwelling.

This information must be provided promptly to the Farmers Home Administration (FmHA) by completing the enclosed Interest Credit Agreement. When applicable, the enclosed Request for Verification of Employment should also be completed.

1. Interest Credit Agreement—This form must be completed correctly and fully. If you are self-employed or a farmer, contact the County Supervisor for an appointment so that the County Supervisor may assist you in providing the required information. Otherwise, provide complete information in section 2 of the agreement, sign the form in the space provided, and send all copies of the form to the FmHA County Office using one of the enclosed envelopes.

2. Request for Verification of Employment—If you are not self-employed or are not a farmer, you should have your employer complete this form. Furthermore, a form should be prepared for each person living in your house or who proposes to live there in the next 12 months, who has reached the legal age of majority in the State and receives income from salary or wages. You and other employed members of your household should each complete items 1, 2, and 3 of a Request for Verification of Employment form, sign it in block 4, and send or give it, with one of the enclosed envelopes, to each employer with a request that the form be completed within 10 days and sent to the FmHA County Office. To ensure that the form is returned to the County Office, you should place a stamp on the envelope before giving it to the employer. If more than two members of your household are employed, additional copies of the form should be obtained from the FmHA County Supervisor.

After the County Supervisor has received all of the required information, the County Supervisor will return a copy of the Interest Credit Agreement form to you. The agreement will show the amount of interest credit, if any, that will be credited to your loan account.

Failure to provide complete and accurate information or to return the forms promptly to the FmHA may result in your not receiving additional interest credit, thus increasing the payments on your loan.

The enclosed Interest Credit Agreement and Verification of Employment must be completed and returned to your local County Supervisor by (date). If the forms are not returned and a new agreement processed, your loan payments will be increased to $—— beginning with your (date) payment. Please see that *all* papers are returned as all income must be counted to compute Interest Credit. If you have any questions you should contact the local County Supervisor immediately at (phone number).

U.S. Department of Agriculture

Farmers Home Administration Finance Office

Borrowers Receiving Forms for Renewing Interest Credit Agreements

Name and address	Case No.	Verification of employment form received	Interest credit agreement received from borrower	Renewal interest credit forwarded to finance office

U.S. Department of Agriculture

Farmers Home Administration Finance Office

Borrowers Whose Renewal Interest Credit Agreements or Notification of Cancellation Have Not Been Received as of ————

Name	Case No.	Fund	Loan	Date of loan	Amount of loan	Cancel as of ( )

Exhibit F

Table of Contents

Mutual Self-Help Housing Guidelines

Introduction
Leadership and Supervision
Basic Requirements
Organization and Agreements
Preconstruction Meetings
Construction
Membership Agreement (Exhibit F–1)
Promissory Note (Exhibit F–2)

Mutual Self-Help Housing Guidelines

How to give low-income rural people an opportunity to have a decent home of their own is a major challenge in rural America. To help such persons have an adequate home at a cost they can afford, the Farmers Home Administration (FmHA) makes Rural Housing (RH) loans to individual persons to enable them to participate in a mutual self-help housing project. This program is specifically designed to help those who do not have enough income to build modest homes by customary methods, to work together to build modest homes of their own.

Participating applicants who are approved by FmHA may obtain rural housing loans to buy materials, to pay for any skilled labor and contract costs required for work on their own homes and if necessary buy a building site. Basic construction labor will be performed by families mutually helping each other, after forming an unincorporated or incorporated association for this purpose.

This exchange of labor, without a cash cost to the families, is the key to the mutual self-help housing program. In this way the houses can be built for considerably less cash cost than by customary methods.

There also may be savings in the cost of materials purchased. All members of the group may buy their materials from suppliers who offer the most favorable prices. Material suppliers may offer discounts to those participating in mutual self-help housing if they know they will have a large volume of sales to members of the group.

Families have been able to build modest homes suited to their needs at savings of several thousand dollars. This substitution of labor equity for cash can reduce the cost of homes enough to bring the price of a modest home within reach of low-income rural families.

Persons interested in working with other families on an organized basis to build their own homes should contact the FmHA County Supervisor serving the area in which the housing will be located.

The County Supervisor will obtain the prior approval of the State Director for committing the FmHA to participate in each mutual self-help project.

Leadership and Supervision

FmHA will provide the overall leadership and supervision and determine the eligibility of the participating applicants to receive Rural Housing loans. A special construction supervisor may, with prior authorization of the National Office, be hired by the State Director to help the applicants with their home building. In some cases construction supervision assistance may be offered by another agency or organization. FmHA will consider such offers under the following conditions:

1. The agency or organization must have the legal, financial and actual capacity and resources to provide the construction supervision assistance under the direction of the FmHA County Supervisor.

2. The respective responsibilities of all parties should be clearly defined and stated in a written agreement to be signed by the participating agencies.

3. The proposal must be compatible with the FmHA borrower method of operation, more specifically:

a. FmHA will make Rural Housing loans to applicants based on the need and qualifications of each.

b. FmHA will determine the eligibility of each applicant, approve the house plans, inspect the construction, and disburse loan funds as needed on an individual-case basis. Loan funds will *not* be pooled.

c. No advance commitments of loan funds will be made for any project. A commitment of funds will be made for each loan when it is approved subject to the conditions stated in each loan approval.

d. No loan funds may be used to pay for construction supervision or to pay borrowers for working on their homes or on the homes of others who are participating.

e. The construction will involve as much on-site work as practicable, to obtain maximum savings to those participating.

f. Basic plans and construction methods should be standardized to the extent practicable.

Basic Requirements

Rural housing loans will be made by FmHA to those who participate in a self-help housing group and who:

1. Do not have sufficient income to build a modest home by customary methods.

2. Are creditworthy by FmHA standards and can comply with all other eligibility requirements for rural housing loans.

3. Desire to build a home of their own that is simple in design, structurally sound, and low in cost.

The following basic conditions are essential to the success of a self-help housing venture:

1. A sincere spirit of cooperation on the part of all participants.

2. Competent leadership and technical supervision.

3. A complete understanding by each person of the responsibilities involved.

4. Adequate time available to participants to do the work.

5. Sufficient skills among the members of the group to do at least the basic construction work.

6. All the building sites must be close enough together to permit convenient exchange of work.

7. Ordinarily from 6 to 10 families can work together satisfactorily.

Organization and Agreements

An understanding should be reached on important items such as when the individuals in the group will be available to work, the amount of work to be performed, the number to be involved in the various work groups and the amount of time each will spend working on the homes. The group will develop a written agreement drawn so as to be binding upon all members signing it. Attached as Exhibit F–1 is a suggested form of such an agreement called a Membership Agreement. All participating members will sign the Membership Agreement and each applicant will be given a copy. Any such

document used will be given prior review and approval by the FmHA to be sure that it is legally adequate and does not conflict with applicable State laws or FmHA regulations. This should be done with the assistance of the Office of the General Counsel.

Each applicant will execute a promissory note for an amount equal to the value of the services they agree to perform for the association to build the houses. See Exhibit F–2. Such a note should not be secured by a lien against the property.

Preconstruction Meetings

The successful conduct of a mutual self-help housing program requires a series of meetings with those participating. These meetings should be held to discuss fully all of the planning, construction, and maintenance of a home, the responsibilities of home ownership, and the requirements for a FmHA rural housing loan. These meetings also will familiarize the applicants with the self-help approach, develop mutual confidences among participants and develop the interest of community leaders in the project. During the group meetings the FmHA County Supervisor and those who will be responsible for the supervision of the construction should be able to learn about the capabilities of the individuals and determine the extent to which construction can be carried out under the self-help method.

The actual number of meetings held will depend on the rate at which the group progresses toward reaching a full understanding of the responsibilities involved. Experience indicates that from 8 to 10 meetings usually will be adequate. Local people should be used, where practical, to discuss appropriate subjects in the meetings. This will help in making the local community aware of the self-help program, and also help obtain local acceptance and support for the project. The following is a recommended sequence of meetings and a suggested list of subjects to be discussed:

The first meeting should be explanatory in nature. The FmHA County Supervisor should discuss the basic principles involved in mutual self-help housing, together with a brief explanation of the purposes and limitations of and the requirements for rural housing loans. The County Supervisor should also discuss obligations of home ownership such as loan payments, taxes, insurance and maintenance. At the first meeting, time should be allowed for the individuals to become acquainted with one another. In closing the first meeting, the group should be informed of the duties and responsibilities of the officers and committees needed to carry out a mutual self-help program. The members of the group should be considering a name for the organization and the persons best suited for the various positions in order that the officers and committees can be selected at the next meeting.

At the second meeting an association should be formed and the officers and committees selected. They might include the following:

1. President
2. Vice-President
3. Secretary-Treasurer
4. Labor Manager
5. Purchasing Committee
6. Program Committee

Additional meetings are essential, but the order in which the subjects are presented or the number of subjects included in any meeting may vary. The following topics are suggested for a series of meetings:

Exhibit F

1. *Site Planning and Building Codes.* An architect, FmHA engineer, or a good builder who also does home designing could be invited to discuss factors in selecting house size. The local building inspector could be asked to speak on building and health code requirements.

2. *Home Planning.* An architect or home economist may be invited to discuss home kitchen layouts, traffic patterns, window placement, economical construction, and other considerations in the selection of a good house plan.

3. *Plans and Specifications.* The group will probably have questions and need individual help in making decisions concerning plans and specifications for their homes. The County Supervisor and the construction supervisor should help each applicant develop suitable specifications.

4. *Cost of Materials.* The purchasing committee will obtain and review prices of materials and contract work. At one of the last meetings to be held before the construction starts, the purchasing committee should report on its recommendations for buying materials and awarding contracts.

5. *Taxes.* A discussion of the method of tax appraising could be given by the local tax accessor. Based on plans and locations a rough estimate should be made of expected taxes.

6. *Insurance.* A local insurance agent may be asked to speak on insurance for fire and extended coverage, household policies, and other coverages of interest to the group such as liability insurance. The FmHA County Supervisor should discuss fire, windstorm and other hazard insurance requirements of RH loans.

7. *Mortgage Requirements.* The FmHA County Supervisor might discuss the FmHA mortgage and related requirements. A local attorney might be asked to discuss other legal aspects of the program.

8. *Maintenance Costs.* The County Supervisor, the construction supervisor or a local real estate agent might discuss the importance of proper maintenance for a home. They should emphasize how money spent for maintenance improves appearance, helps maintain value and saves money in the long run.

9. *Money Management.* The FmHA County Supervisor should impress upon the group the necessity of following the basic principles of money management such as keeping records, following a budget, and not overspending on non-essentials.

10. *Labor Sharing Arrangement.* The group should discuss and reach decisions as to how the members will share the labor, how records will be kept of time worked, how to make sure that labor will be exchanged on a basis that is fair to all members and how to evidence and record these decisions.

11. *Use of Tools.* One or more of the meetings should include demonstrations and training by the construction supervisor of the safe and proper use of tools. Special attention should be given to the use of basic tools such as level, square, rule, saw, and any power tools that might be used in the construction.

12. *Construction and Work Procedures.* The authority and duties of the Construction Supervisor will be discussed in detail. The procedures for actual construction will be discussed including labor sharing, work teams, order of development, function of committees, time reporting for work completed and future hours available.

13. *Ground Breaking Plans.* The final preconstruction meeting should be more of a social get-together than a business meeting. This is also the logical time to plan a ground breaking ceremony for the day the loans are closed.

Construction

The basic work is performed, largely on a labor exchange basis, by the participating families under the guidance of the construction supervisor.

The group may, depending on the skills of the individuals, plan to do all the work or plan to contract for work which they cannot do readily, such as installation of wiring, plumbing and kitchen cabinets and equipment, excavating for basements and dry-wall finishing. Highly skilled or specialized jobs will be contracted when such services are not available in the group.

There may be an inclination on the part of some participants to want to concentrate on their own homes, particularly after the framing is in place. Therefore, a prior understanding should be reached regarding the specific responsibilities of each family. Rather than completing or nearly completing each house one at a time, work should start on all houses and each stage of construction be finished on all before starting the next stage of construction on any house, to the extent consistent with good construction practices.

To effect savings, materials for all the houses may be purchased from the one or several suppliers who offer the lowest prices. Also, all contracts for members of the group may be awarded to the same contractors. To illustrate, the plumbing contractor offering the lowest price ordinarily should perform the plumbing for all of the dwellings.

Each borrower will pay the material supplier for materials used, and the contractor for work done, on its own home. All deliveries of materials will be itemized separately for each home. The Association as a whole after considering the suggestions of the purchasing committee will recommend the suppliers from whom materials will be purchased and the contractors to whom the contracts will be awarded.

The construction supervisor with the advice of the president of the association should divide the group into work teams. Work teams should be organized on the basis of skills, compatibility, and availability. For example, one team could lay out and pour footings and another team could lay bricks. The third team could begin framing as soon as the foundation is ready.

A firm understanding will be reached that no changes in construction from the approved

plans and specifications may be made without furnishing the County Supervisor with full cost figures and obtaining approval in advance. If any change results in a need for additional funds, they must be furnished by the borrower before approval. All homes should be finished at or about the same time and none should be occupied prior to completion of them all.

The Association should have brief meetings, at least once a week, to:

1. Report on performance and hours of work performed.
2. Settle any disagreements.
3. Plan work schedule and purchases for the coming week.

Exhibit F–1

————————Association

Membership Agreement

We understand that by signing this agreement we will become members in the ———— Association when we receive adequate credit to finance the home we intend to build. We have read the agreement or have had it read to us and agree to comply with all its provisions. Each applicant has been given a copy to keep.

Purpose

The purpose of this Association is to provide a way whereby each member can help itself and every other member to build its own home.

Membership

Membership will be limited to those persons who:

1. Do not have an adequate home;
2. Are willing to work with the other members of the Association in building their homes;
3. Have a commitment to obtain financing for the cash cost of their home; and
4. Sign the Membership Agreement.

Applicants and co-applicants may both sign the Membeship Agreement. As used in this agreement the term "Applicant" means either applicant or co-applicant when both sign the agreement, or the person signing when only one signs.

Voting Rights

Each member will have one vote in the election of officers and all other matters involving a decision by the membership.

Officers

The officers of the Association will be a President, Vice-President and a Secretary-Treasurer. Each will be elected, at a meeting, by a majority vote of all the members and will continue to hold office unless the officer resigns, dies, is incapacitated, or is removed by vote of two-thirds of all the members at a called meeting for the purpose of considering such removal. The duties of the officers will be as follows:

The President will:

1. Call membership meetings and officers' meetings;
2. Preside over all meetings;
3. Work closely with the construction supervisor; and
4. See that committees and members carry out their responsibilities in connection with mutual self-help project.

The Vice-President will:

1. Act for the President in the President's absence, and
2. Be chairman of the Program Committee.

The Secretary-Treasurer will:

1. Keep the minutes of each meeting.
2. Handle correspondence of the Association.
3. Collect and handle through a checking account in the Association's name, funds the organization may need. These may include items such as stationery, stamps and record book.
4. Maintain other records of the Association at the direction of the President.

Appointed Committees and Positions

The officers by majority vote will appoint the following from the membership:

1. A Labor Manager who will keep records of the hours worked by each member and notify the construction supervisor as to the availability of members for work on the housing.
2. A Purchasing Committee of three members of the Association that will obtain and review prices and cost estimates for the houses to be built and recommend contractors and suppliers to be used by the members.
3. Two of the three members of the Program Committee. The third member will be the Vice-President, who will be chairperson. This committee will help plan meetings and assist in obtaining outside speakers.

Meetings

Meetings of Officers and meetings of members will will be held as often as necessary to successfully complete the mutual self-help housing. Meetings may be called by the President when considered advisable and will be called by the President at the written request of not less the —— members, or at the request of the Farmers Home Administration County Supervisor or other authorized Farmers Home Administration employee. Each officer or member will be notified at least three days before the meeting as to the time, date and place of each meeting by mail, telephone or by announcement at the preceding meeting.

Labor Exchange Agreement

Each member agrees to furnish 700 hours of labor for the construction of houses of the other members of this Association in return for 1,500 hours of labor from other members in the actual construction of its house. We understand that if more than 1,500 hours labor is required from each member to complete all houses, each member will furnish its share of additional labor needed. In case less than 1,500 hours labor is required from each to complete all the houses, each family's obligation under this agreement will be satisfied when it has contributed the number of hours labor actually required.

The number of hours worked by each member or by any other person for any applicant credit will be verified by the Labor Manager. Each member will sign a promissory note to the Assocation in the amount of $—— . It is understood the amount of $—— for each approved hour of labor performed will be credited on the note and that the note will be satisfied when the number of hours required of each member has been worked. However, if any member because of death, illness, or injury is unable to make its full labor contribution personally or from other sources as required, that member will be excused to that extent from performing its labor agreement, and all the other members will assist such a member in completing its house and will contribute the additional amount of labor for all the houses which otherwise the stricken member would have furnished.

We agree to exchange labor on the following basis:

1. Equal time will be allowed for labor performed by members in the actual construction of the homes regardless of the type of work involved.
2. Rates for time allowances for labor performed by persons other than members, will be determined by the Officers with the approval of the Labor Manager and the construction supervisor.
3. A member may not work alone on the members own house unless the job can be done alone and the consent of the construction supervisor has been obtained.
4. The hours worked will be reported by each worked to the construction supervisor each day. The construction supervisor will promptly turn in a work sheet for each worker to the Labor Manager, who will credit the hours worked to that members account. In case of a dispute as to the number of hours to be credited, the question will be resolved by a majority vote of the officers of the Association.

General Agreements

We agree that:

1. The Association, by majority vote, will determine and recommend the best way to buy materials and recommend contractors for any skilled work. Each member shall make its own decision in selecting the type of building materials and in selecting a contractor from those recommended by the Association. Each member shall pay the cost of materials and the contractor in connection with its own home.
2. The Association will collect cost of operation of the Association from members, not to exceed $—— from each member.
3. The Association will collect, by any means available, payment for failing to provide the amount of labor agreed.
4. The Association will act for the group in other matters related to the project when authorized by a majority of the members.
5. Property insurance will be obtained by the members as required by the Farmers Home Administration. Members also will obtain workmen's compensation insurance as required by State law or public liability insurance against claims of others when required by the Farmers Home Administration.

Dissolution

After a determination is made by the officers that the last house is completed and that there are no obligations of or to the Association, upon majority vote of the members and with the consent of the Farmers Home Administration the Association shall terminate.

Amendments

Amendments to this agreement may be made by a majority vote of the members, at a meeting called for the announced purpose of considering amendments, to take effect upon approval by the Farmers Home Administration County Supervisor; but no amendments may decrease the rights or increase the liability of any member without such member's consent.

Date _____
Signed Applicant _____
Date _____
Signed Co-applicant _____
Date _____
Signed Applicant _____
Date _____
Signed Co-applicant _____
Date _____
Signed Applicant _____
Date _____
Signed Co-applicant _____
Date _____
Signed Applicant _____
Date _____
Signed Co-applicant _____

Exhibit F–2

Promissory Note

Date _____

Eighteen months after date, for value received, we promise to pay to the _____ Association or order the sum of _____ ($). We have agreed to furnish said Association 700 hours of our own labor or the labor of other persons as approved by the officers and Labor Manager of the Association and the construction supervisor in accordance with the Membership Agreement of the Association. Credits will be made on this note at the rate of $—— for each hour worked by either of the undersigned, and at a rate determined in accordance with the Membership Agreement for each hour worked by any other person for the account of the undersigned, in the next eighteen months. This note will be satisfied when the undersigned have furnished the actually required number of hours labor. All time worked must be approved by the Labor Manager of the Association. This note is subject to all provisions of the Membership Agreement.

Applicant _____
Co-applicant _____
Address _____
Witness _____

Exhibit G

Information Required To Package Applications for Section 502 Rural Housing Loans

I *General Information:* Persons or organizations that want to assist applicants in submitting applications to the Farmers Home Administration (FmHA) should first meet with the County Supervisor. If these discussions indicate that the person or organization is capable of satisfactorily delivering complete information about applicants and houses that are likely to qualify for Rural Housing (RH) loans, the County Supervisor will review in detail the information that is needed and the processing steps required in completing an RH loan. The County Supervisor will provide assistance and guidance to all packagers in obtaining the required information. The following FmHA forms and this exhibit may be provided to prospective packagers as needed:

A Form FmHA 444–12, "Check Sheet for Rural Housing Loan Package."
B Form FmHA 410–4, "Application for Rural Housing Loans (Nonfarm Tract)."
C Form FmHA 410–1, "Application for FmHA Services."
D Form FmHA 410–5, "Request for Verification of Employment."
E Form FmHA 422–8, "Property Information and Appraisal Report—Rural Housing Nonfarm Tract."
F Form FmHA 424–2, "Description of Materials."
G Form FmHA 440–34, "Option to Purchase Real Property."

II *Information Packager or Applicant Must Provide:*

A *Information To Be Submitted For All Applicants.*

1 The applicant should complete the appropriate application for (FmHA Form 410–1 or 410–4).

a All information must be complete and accurate.

b If the applicant has business income, the current operating statement must be attached.

c The applicant must date and sign the application form.

2 Form FmHA 410–5, is used to check employment and income of applicants. The form should be mailed to the employer to be completed and returned directly to the County Office. FmHA will not provide franked envelopes to a packager for this purpose.

3 In cases where it appears that the applicant has sufficient income or assets to qualify for housing credit from another source, a diligent effort must be made to obtain such credit from at least two lenders who customarily make long-term housing loans in the area. If such lenders are unable to provide the credit needed, their written response stating why they cannot assist the applicant should be included in the loan package.

4 The information specified in paragraphs II B or II C below, which ever is applicable, will be submitted. In case FmHA has issued a conditional commitment on the property, information on the house will be on file in the County Office and need not be resubmitted.

5 If a house to be purchased is under construction, the loan will not be closed until construction is completed. In such a case the information in paragraph II C below will be submitted.

B *Information needed for loans to purchase new homes or to build or rehabilitate homes.* The information requested on the front page of Form FmHA 422–8 will be submitted along with the completed form. This applies regardless of whether a conditional commitment is being requested in connection with the package. When Form FmHA 424–2 is completed, item 31 of the form should include a complete description of the foundation plantings, trees, seeding or sodding that are included in the contract.

C *Information to be Submitted for Loans To Buy Existing Homes.*

1 A signed or certified copy of an option on the property. The option must provide that any payments made by the applicant will be refunded if the loan is not made. Form FmHA 440–34, may be used for this purpose.

2 A termite certification whenever required.

3 In case major improvements are involved, submit three sets of complete drawings and specifications of the work that must be done, and a contractor's bid or a reliable cost estimate.

4 If the house qualifies as an existing home, is less than a year old, and an individual water or sewage system is involved, include a certification by the builder that the house and any water and waste disposal system have been or will be built or installed in accordance with the local building codes and plans and specifications. Such plans and specifications will also be submitted. Evidence of approval by health authorities having jurisdiction in the area also will be included. If the house is a year or more old, the County Supervisor will determine that the water and/or sewage system is functionally adequate and that the house meet FmHA requirements.

5 Form FmHA 422–8 with Part I completed. Also the information concerning the applicant's name and address on the bottom of the first page should be completed.

6 Direction map to the property.

7 Plot plan drawn to scale showing house location and related facilities.

III *Review and Acceptance of Completed Package:* During the initial discussions with packagers, the packager should understand the necessity for, and agree that, the loan packages will be assembled in the order shown on Form FmHA 444–12 before they are delivered to the County Office. Form FmHA 444–12 must be signed by the packager and be included with the materials submitted; otherwise, the packaged application will not be accepted. The County Supervisor should review each loan package when it is received and request any additional information needed. The County Supervisor will determine eligibility according to FmHA Instruction 1910–A but will not proceed with the processing of the loan until the applicant has been interviewed. A personal interview will be conducted by an FmHA employee with all applicants before approval of the requested loan in accordance with § 1944.26 (c) of this Subpart.

A If the applicant appears to be qualified and all needed material is available, the County Supervisor will complete an appraisal of the property and the processing of the application.

B If a loan can be approved, the County Supervisor will notify the applicant including any requirements that must be met prior to closing the loan. If for any reason a loan cannot be made, the County Supervisor will notify the applicant and the packager. If the loan is denied because the applicant is determined ineligible the applicant will be notified in accordance with § 1910.6, Subpart A, Part 1910.

IV *Packagers' Responsibilities:* Packagers should fully understand their responsibilities in helping applicants to assemble their RH loan applications. They should also

understand that no fees may be charged for providing this service.

V *District Directors' Review of Loans Originated by Application Packagers:* District Directors are responsible for reviewing the file of a representative number of borrowers whose RH applications were submitted to the County Office by a packager. At least 5 percent of the cases packaged by each packager working in the county will be reviewed. The folders reviewed will be randomly selected and reviewed at scheduled office visits throughout the year in accordance with §§ 2006.604(c) and 2006.605(a) (1) of FmHA Instruction 2006–M (available in any FmHA office). The review will be made to determine whether: the applicant's income was properly verified; any credit report received was mailed from the Credit Reporting firm directly to the County Supervisor; the County Supervisor interviewed and counseled with the applicant prior to loan approval; the applicant was eligible for the RH assistance granted; and the loan was in accordance with FmHA procedures. Any incidence of unethical activity by a packager or the approval of improper loans by a County Supervisor will be reported promptly to the State Director for appropriate handling.

Exhibit H

Rural Housing Applicant Interview

The following items will be reviewed in detail during a personal interview between the rural housing loan applicant and County Supervisor to assure an understanding of Farmers Home Administration loan making a loan servicing authorities, and the responsibilities of the applicant/borrower. *No loan will be closed without signed evidence that this interview has been held.*

1. *Equal Credit Opportunity:* FmHA assistance and services shall not be denied to any person or applicant as a result of race, sex, national origin, color, religion, marital status, age, physical or mental handicap (applicant must possess the capacity to enter into a legal contract for services), receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act.

2. *Income:* Eligibility is limited to those applicants with low or moderate income who are creditworthy and have repayment ability for the loan requested. The planned income to be received by the applicant and all other adults who live or propose to live in the dwelling during the next 12 months must be included.

3. *Adjusted Income:* Qualification for low or moderate income is based on adjusted income. This is the total annual income less 5 percent thereof and less $300 for each minor person who is a member of the immediate household and lives in the home. Other deductions are contained in the regulations.

4. *Eligibility:* A determination of applicant eligibility is not an assurance that a loan will be approved. Loan approval will depend on an inspection and appraisal of the dwelling the applicant wishes to purchase and the applicants repayment ability for the amount of loan needed to purchase the dwelling.

5. *Application Processing Priorities:* Applications will be processed in the order of priorities as outlined in FmHA regulations. When funds are inadequate to serve all eligible applicants the order or processing will be established at the beginning of each funding period considering applications on hand and not in process at that time.

6. *Counseling:* Credit counseling is available at the local County Office for any applicant or borrower who needs or desires such assistance. This will include assistance in budgeting and the use and management of household income.

7. *Cosigner:* An applicant who does not have repayment ability may furnish a cosigner who will guarantee repayment of the loan. Such cosigner must be approved by Farmers Home Administration.

8. *Legal Fees:* The applicant must pay necessary legal fees for title examination and loan closing. Escrow Agents or Designated Attorneys will be employed for this service. In some cases the fees may be included in the loan.

9. *Interest Credit:* Interest credit is available to qualified low-income applicants whereby the interest rate on the loan may be reduced to a minimum of 1 percent. The amount of interest credit granted depends on the borrower's income which will be reviewed at least every 2 years.

10. *Improper Interest Credit:* Interest Credit or other subsidy assistance granted improperly either as a result of false information or through error, will be repaid by the borrower.

11. *Recapture of Interest Credit:* Interest credit received by a borrower will be subject to repayment to the Government when the mortgage will be released, when the loan is assumed by another person(s), when the property is sold, or when it is no longer occupied by the borrower.

12. *Monthly Payments:* Regular payments must be made on or before the due date. Payments will be applied first to unpaid interest and the balance to principal. If for any reason a payment cannot be made on time the borrower should immediately contact the local county office.

13. *Insurance:* Every borrower will be required to obtain property insurance in a minimum amount specified by FmHA. The cost must be paid by the borrower and is not included in the regular monthly payment.

14. *Taxes:* All real estate taxes must be paid by the borrower directly to the local taxing office. They are not included in the regular monthly payment. Nonpayment of taxes can result in public sale of the property by the local tax authority or foreclosure by the Farmers Home Administration.

15. *Graduation:* FmHA is a supplemental source of credit and does not replace conventional lenders. When another source of credit becomes available, the borrower will be so advised and will be expected to pay the FmHA loan in full.

16. *Compensation for Construction Defects:* For newly built dwellings the government may in some cases pay for major defects in dwelling construction which are not repaired by the builder. To be eligible, a claim must be filed at the FmHA County Office within 18 months after the warranty becomes effective.

17. *Moratorium:* Borrowers may apply for a postponement of payments if due to circumstances beyond their control they are unable to continue making scheduled payments on the loan without unduly impairing their standard of living. Some of these circumstances are: Loss of job or sudden reduction of income from other sources; a loss of income or a substantial increase in expenses due to injury, illness, or death in the family.

18. *Occupany:* Borrowers must personally occupy the dwelling. Failure to do so may result in the loan being declared due and payable in full. If for reasons beyond their control it becomes necessary to rent the dwelling temporarily, permission may be granted by the County Supervisor.

19. *Appeal:* Applicants or borrowers may appeal any FmHA program administrative action by which they are directly or adversely affected. This includes having a request for FmHA assistance denied or having FmHA assistance reduced, cancelled, or not renewed. The County Supervisor will provide information on appeal procedures.

The above items were discussed on_____and we acknowledge receipt of a copy of the discussion outline.

County Supervisor _____

Applicant _____

Co-Applicant _____

Original to Borrower case file

Copy to Borrower

This document has been reviewed in accordance with FmHA Instruction 1901–G "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, P.L. 91–190, an Environmental Impact Statement is not required. This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations". A determination has been made that this action should not be classified "Significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Office of the Chief, Directives Management branch, Room 6346, South Building, Washington, DC 20250.

(42 USC 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: February 7, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80–4777 Filed 2–13–80: 8:45 am]

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federal register

Thursday
February 14, 1980

Part VII

Department of Energy

Office of Hearings and Appeals

Applications for Exception Relating to Motor Gasoline Allocation and Price Regulations

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Applications for Exception Relating to Motor Gasoline Allocation and Price Regulations

AGENCY: Department of Energy, Office of Hearings and Appeals.

ACTION: Notice of Standards Established in Departmental Determinations Involving Exception Relief from the Motor Gasoline Allocation and Price Regulations.

SUMMARY: The Guidelines which follow are the second portion of a two-part summary of the standards which the Office of Hearings and Appeals of the Department of Energy has applied in considering applications for exception from the motor gasoline allocation and price regulations. The first portion of these Guidelines, issued on July 3, 1979, primarily described the principles that had been enunciated in exception decisions issued to individual retail service stations seeking increased allocations of gasoline. The first portion of the Guidelines also discussed the type of data which the Office of Hearings and Appeals had found useful in the evaluation of an exception request filed by an individual retail outlet seeking an increased allocation.

The portion of the Guidelines which is being published today outlines the standards which the Office of Hearings and Appeals has applied in cases involving jobbers (i.e., wholesalers) and in class exception proceedings. Today's Guidelines also discuss the principles set forth in gasohol cases and in Decisions issued to retailers and jobbers seeking relief from the gasoline price regulations applicable to their operations. Finally, today's Guidelines also discuss the findings reached in a recent Decision issued to the Government of the District of Columbia, and the administrative procedures applicable to exception filings.

Each of the orders cited in the Guidelines is available for public inspection and copying in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461. The Office of Hearings and Appeals has also formed a group which has been responding to telephone inquiries from members of the public as to the procedures applicable to exception filings. The telephone number of that group is listed below.

With respect to the cases and discussion that appear in the Guidelines, it must of course be recognized that each exception application submitted to the Department of Energy must be considered on the basis of the particular factual circumstances presented in the application and that the Guidelines set forth in this notice are an attempt to reflect accurately existing case law and are not intended to be binding or to be exhaustive of every particular factual situation.

FOR FURTHER INFORMATION CONTACT:

Office of Hearings and Appeals Allocation Task Force, telephone Number (202) 254-3008.

Marcia B. Proctor, Chief, Docket and Publications Branch, Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-8750.

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(iii) The Nature of Relief Granted
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Since March 1, 1979, the Office of Hearings and Appeals has received more than 17,000 petitions filed by firms seeking administrative relief of one form or another from the provisions of the motor gasoline allocation and price regulations. In response, the Office of Hearings and Appeals has issued thousands of decisions resolving gasoline allocation and price cases submitted to it by individual retail outlets, wholesale purchaser-resellers (jobbers), service station associations, jobber associations, municipalities, refiners, and end-users. The Office of Hearings and Appeals has also considered a number of cases in the context of class exception proceedings. On July 3, 1979, the Office of Hearings and Appeals issued a Notice which discussed the principles that had been enunciated in exception decisions issued to individual retail outlets. 44 Fed. Reg. 40391 (1979). The July 3 Notice also discussed the type of data which the Office of Hearings and Appeals had found necessary for the evaluation of an exception request filed by an individual retail outlet seeking an additional gasoline allocation. In addition, the July 3 Notice described the findings reached in several cases which involved important public interest considerations.

The July 3 Notice was intended to be the first portion of a two part summary of the standards which the Office of Hearings and Appeals has applied in considering exception requests pertaining to the motor gasoline allocation and price regulations. This Notice contains the second portion of this summary. The Guidelines which are being published today outline the principles the Office of Hearings and Appeals has applied to cases submitted to it by jobbers and to class exception matters. In addition, the Guidelines also discuss the principles set forth in the Decisions issued to firms seeking allocations to facilitate the production of gasohol and by firms seeking relief from the motor gasoline price regulations. Finally, the Guidelines discuss the procedures that a firm requesting relief should follow in submitting an exception application to the Office of Hearings and Appeals.

I. Regulatory Background

On February 22, 1979, the Economic Regulatory Administration (ERA) of the DOE changed the base period utilized for the allocation of motor gasoline. *See* Standby Regulation Activation Order No. 1, 44 FR 11202 (February 28, 1979). Prior to the issuance of the Activation Order, a firm was generally entitled in any given month to purchase the quantities of gasoline that it purchased during the corresponding month of 1972 from the firms which supplied it with gasoline during that base period month. During the 1975-1978 period, supplies of gasoline were generally sufficient to meet demand. During this period, jobbers and retailers which were capable of selling increased quantities of gasoline generally did not experience any difficulty in obtaining quantities of gasoline in excess of their 1972 allocation level. Conversely, many jobbers and retailers did not purchase from their base period suppliers the quantities of gasoline which they were

entitled to purchase under the DOE allocation regulations. As a result, the 1972 allocation levels of many firms were not reflective of actual monthly purchase volumes at the conclusion of 1978.

The Activation Order changed the base period for motor gasoline allocation from the corresponding month of 1972 to the corresponding month of the period from July 1977 through June 1978. The revised base period was initially intended to be effective for the three month period from March through May 1979. However, on May 1, 1979, the ERA published an Interim Final Rule which established the November 1977 through October 1978 period as the new base period for motor gasoline. *See* Notice of Proposed Rulemaking and Interim Final Rule, 44 FR 26712 (May 4, 1979). On July 15, 1979, the ERA issued a Final Rule which generally made permanent the provisions of the Interim Final Rule issued on May 1, 1979. *See* 44 FR 42549 (July 19, 1979). The DOE allocation regulations now provide that the base period for motor gasoline allocation is the corresponding month of the period November 1977 through October 1978. 10 CFR 211.102. The regulations also permit a retail sales outlet, wholesale purchaser-consumer, or bulk purchaser of motor gasoline to substitute as its base period volume its average monthly purchases during the period October 1978 through February 1979, if that average is at least 10 percent greater than its purchases during the month for which the substitution is made. 10 CFR 211.104. Base period suppliers who are not prime suppliers may certify upward any additional volumes they are required to supply pursuant to the 10 percent growth provision. *Id.*

On July 15, 1979, the ERA also adopted an amendment to the provisions of the motor gasoline price regulations that apply to retailers. 44 FR 42541 (July 19, 1979). Prior to the adoption of this amendment, a retailer's maximum permissible price was generally equal to the firm's per gallon price on May 15, 1973, plus increased product costs and certain increased nonproduct costs. In addition, a retailer was permitted to raise its prices to reflect increased "banked" costs which had not previously been reflected in the prices the retailer charged. Under the current regulations, the maximum lawful price that a retailer of motor gasoline may charge is the retailer's acquisition cost of gasoline (including taxes) plus a fixed per gallon margin. The July 15 Rulemaking established a fixed margin ceiling of 15.4 cents per gallon effective August 1, 1979. This ceiling was recently raised to 16.1 cents per gallon, effective December 15, 1979. 44 FR 72566 (December 13, 1979).

II. Decisions Issued to Jobbers

The change in the base period utilized for gasoline allocation purposes in many instances affected jobbers and retail outlets in similar ways. As a result, the precedents established in Decisions issued to retail outlets have often been applied directly to exception requests filed by jobbers. However, the position of a typical jobber is different from that of a retail outlet in several important respects. First, a jobber may obtain an increased allocation from its supplier by "upward certifying" when a retail outlet or wholesale purchaser-consumer which it supplies certifies that it is entitled to a higher allocation. Often the certification occurs because of the unusual growth adjustment or the issuance of an assignment order. As a result, many jobbers have been able to obtain sufficient supplies of additional gasoline to meet their needs without seeking assistance through the exceptions process. Secondly, it is important to recognize that the approval of an increased allocation to a jobber generally provides the jobber with product for which it does not possess a specific supply obligation. As a result, the jobber receiving an increased allocation often can distribute the additional gasoline supplies at its discretion, after satisfying the requirements of § 211.10(g)(5). When gasoline supplies are tight, the ability to obtain additional supplies in this fashion gives the jobber a very substantial competitive advantage. As a result, the Office of Hearings and Appeals generally makes every effort to insure that exception relief granted to a jobber is strictly limited to the amount necessary to offset the serious hardship, gross inequity, or unfair distribution of burdens that the jobber is experiencing.

Sections A through D below contain discussions of the major principles which the Office of Hearings and Appeals has applied in considering the most common types of exception requests filed by jobbers. Section E contains a brief discussion of principles established in other cases involving jobbers. Although the criteria discussed below have been given general applicability, each exception request is of course evaluated on the basis of its own merits.

(A) Anger-Type Cases

(i) Description of the *Anger* Standards: Part One of the Guidelines discussed the criteria which the Office of Hearings and Appeals had applied in considering exception requests filed by firms that made significant investments in retail outlets during or immediately subsequent to the new base period. Many firms in this situation found that the implementation of the new base period prevented them from obtaining anticipated gasoline supplies and receiving the expected benefits of their investments. In *Leo Anger, Inc.*, Case No. DEE–2326 (Final Decision issued June 18, 1979), the Office of Hearings and Appeals found that it would be grossly inequitable in a situation of this type to limit a firm's allocation to its base period level, especially when that allocation level would not only prevent the owner of the firm from realizing a profit on his investment but also would seriously jeopardize the firm's ability to meet its monthly loan payments and other fixed operating costs.

The Office of Hearings and Appeals held in *Anger* that an exception would be granted increasing a firm's allocation when a showing was made that:

(i) a substantial capital investment was made by a firm with the expectation that the investment would enable the applicant to increase its sales of motor gasoline and therefore realize an economic benefit from the investment;

(ii) the increased sales volume and the intended benefits of that capital investment could not be realized until after the new period; and

(iii) in the absence of an exception increasing its allocation of gasoline, the firm will not be able to realize the intended benefits of the capital investment and will be adversely affected to a significant degree.

(iv) Application of These Standards: Part One of the Guidelines described the ways in which the Office of Hearings and Appeals has applied the *Anger* standards in considering exception requests filed by individual retail outlets. The *Anger* standards have also been utilized in the evaluation of exception requests filed by jobbers that made investments during or after the new base period.

In order to satisfy the first *Anger* criterion, a jobber must demonstrate that it made a substantial capital investment with the expectation that the investment would enable it to increase its sales of motor gasoline. This criterion has been satisfied in jobber cases by investments of $167,500 (*Cal Bliss Enterprises*, Case No. DEE–2388 (Final Decision issued June 19, 1979)), $101,400 (*P&W Oil Co., Inc.*, Case No. DEE–2890 (Final Decision issued June 19, 1979)), and $95,600 (*Mike Rose Oil Company*, Case No. DEE–2733 (Proposed Decision

issued October 25, 1979)). In most instances, the firm purchasing a jobbership stated that it made its investment with the expectation that it would be able to obtain the volumes of gasoline which the prior firm was entitled to obtain under its adjusted 1972 allocation. *See Cal Bliss Enterprises, supra; P&W Oil Co., Inc., supra; Parker Oil Company,* Case No. DEE–3117 (Final Decision issued November 2, 1979); *North Central Oil Company,* Case No. DEE–3080 (Proposed Decision issued September 18, 1979); *Mike Rose Oil Company, supra.* In each of these cases, the 1972 allocation of the firm involved was substantially higher than its allocation under the new base period regulations. In other cases the Office of Hearings and Appeals held that the first *Anger* criterion was satisfied when the firm involved made an investment subsequent to the new base period but prior to March 1, 1979 with the reasonable expectation that it would be able to increase its monthly purchase volumes. *See Handeyside Oil Corporation,* Case No. DEE–2380 (Final Decision issued June 19, 1979); *"J" Oil Inc.,* Case No. DEE–2594 (Proposed Decision issued June 20, 1979); *B&B Oil Co., Inc.,* Case No. DEE–5854 (Proposed Decision issued November 28, 1979).

In several cases the Office of Hearings and Appeals has held that a jobber did not satisfy the first *Anger* criterion. For example, *Greenwood Petroleum Company,* Case No. DEE–6718 (Proposed Decision issued June 29, 1979) involved a jobber which made investments at five retail outlets which it owned. The Office of Hearings and Appeals concluded that exception relief was appropriate under the *Anger* standards for one outlet at which Greenwood made an investment of $160,000. However, the Office of Hearings and Appeals held that exception relief was not appropriate for the other four outlets, in which Greenwood had invested only $13,400. The Office of Hearings and Appeals held in *Greenwood* that a minimum investment of $10,000 per outlet is necessary to satisfy the first *Anger* criterion.

Colorado County Oil Co., Inc., Case No. DEE–6656 (Proposed Decision issued November 20, 1979) involved a firm which purchased two bulk plants and entered into a Distributors Agreement with Texaco, Inc. on March 1, 1979, after the ERA had changed the base period for gasoline allocation. Colorado County argued that an exception restoring its 1972 adjusted allocation should be granted under the *Anger* principles. The Office of Hearings and Appeals observed, however, that firms operating in the petroleum industry have an affirmative obligation to remain aware of the specific provisions of the DOE regulatory program which affect the conduct of their business operations. The finding was made that Colorado County and Texaco were very experienced in gasoline marketing and should have been aware of the supply shortage and the implementation of the new base period. As a result, the conclusion was reached that exception relief was not appropriate under the *Anger* standards.

In order to satisfy the second *Anger* criterion, a jobber must demonstrate that the increased sales volume and the intended benefits of its investment are not reflected in the allocation to which it is entitled under the new base period regulations. A jobber which made an investment and increased its sales volumes prior to October 1978 frequently benefits from the provisions of the unusual growth adjustment and does not need exception relief. For example, *Parker Oil Company, supra,* involved a firm which purchased a bulk plant and eleven retail service stations on May 12, 1978. The Office of Hearings and Appeals observed that Parker was already able to obtain additional volumes of gasoline under the DOE regulations because 60 percent of Parker's gasoline sales during the base period were made to retail sales outlets that qualified for the growth adjustment. In other cases, the Office of Hearings and Appeals found that a jobber which made an investment near the end of or after the new base period generally did not have an adequate opportunity to increase its sales volume prior to the base period change. As a result, the second *Anger* criterion has been satisfied by jobbers that completed investments during October 1978 (*North Central Oil Co., supra*); during December 1978 (*P&W Oil Co., Inc., supra*); and during mid-January 1979 (*"J" Oil Inc., supra*).

In several cases the Office of Hearings and Appeals has found that a jobber failed to satisfy the second *Anger* criterion. *Bazell Oil Co., Inc.,* Case No. DEE–4490 (Proposed Decision issued October 23, 1979) involved a firm which purchased a jobbership during May of 1978. The Office of Hearings and Appeals found that there was no indication that the updating of the base period had prevented the firm from realizing an increased sales volume, noting that the firm's 1972 adjusted allocation level was not significantly different from its allocation level during the new base period. The Office of Hearings and Appeals also noted that Bazell would benefit from the provisions of the unusual growth adjustment. *Kimmick Oil Company,* Case No. DEE–2634 (Final Decision issued August 20, 1979) involved a firm which purchased a jobbership in June of 1977 and several additional retail outlets during the course of 1978. In denying Kimmick's request for an increased allocation, the Office of Hearings and Appeals held that the firm had an adequate opportunity to acquire new customers and increase its sales volume prior to the new base period.

The third *Anger* criterion pertains to the adverse impact which the denial of exception relief would have upon the firm involved. The Office of Hearings and Appeals has held that this criterion is satisfied when the jobber involved would be unable to meet its debt obligations in the absence of relief (*Parker Oil Company, supra,* and *North Central Oil Company, supra*) or when the jobber would be unable to meet its operating expenses and would therefore be required to operate at a loss in the absence of relief (*Cal Bliss Enterprises, supra; P&W Oil Co., Inc., supra; Mike Rose Oil Company, supra; B&B Oil Co., Inc., supra*).

In several cases in which an exception request was denied, the Office of Hearings and Appeals found that the firm had failed to satisfy the third *Anger* criterion. *Otis Jones Oil Co., Inc.,* Case No. DEE–6355 (Proposed Decision issued December 17, 1979) involved a firm which purchased a jobbership in February 1979. The Office of Hearings and Appeals found that the firm had failed to demonstrate that it was adversely affected to a significant degree by the implementation of the new base period. In this connection, the Office of Hearings and Appeals observed that Jones had realized a profit of approximately $8,000 during its first five months of operation. Other cases in which the Office of Hearings and Appeals concluded that a firm had failed to satisfy the third *Anger* criterion include *Bazell Oil Co., Inc., supra,* and *Kimmick Oil Company, supra.* In each of these cases, the Office of Hearings and Appeals found that the applicant would continue to operate on a profitable basis in the absence of exception relief.

(iii) The Nature of Relief Granted: The level of relief approved in an *Anger* case depends upon the particular factual circumstances involved. In several cases, the Office of Hearings and Appeals held that a jobber that made an investment with the reasonable expectation that it would be able to

obtain its predecessor's 1972 base period volume was entitled to an exception which established that 1972 volume as its current base period allocation, particularly when the 1972 volume did not appear to be substantially in excess of the jobber's actual operating experience. *See Cal Bliss Enterprises, supra; P&W Oil Co., Inc., supra; James Oil Company,* Case No. DEE–2912 (Final Decision issued September 11, 1979); *Mike Rose Oil Company, supra.* In granting relief of this nature, the Office of Hearings and Appeals has on occasion directed the jobber involved to notify the ERA of the availability of surplus product if the use of the 1972 allocation level enabled the firm to furnish more than 100 percent of its customers' base period allocation in any month. *Mike Rose Oil Company, supra; James Oil Company, supra.* In other cases the Office of Hearings and Appeals has examined the financial condition of the applicant and calculated a level of relief which would be sufficient to enable the firm to maintain its operations. For example, in *North Central Oil Company, supra,* the Office of Hearings and Appeals observed that the data submitted by the firm indicated that it would be unable to meet its debt obligations in the absence of relief. The conclusion was reached that, in view of the nationwide shortage of gasoline, it would be inappropriate to reinstate North Central's 1972 allocation level. Instead, exception relief was extended to North Central which was sufficient to enable the firm to meet the debt obligations incurred when it reorganized in late 1978.

In *Parker Oil Company, supra,* the Office of Hearings and Appeals found that exception relief of the magnitude requested by the firm was not necessary because the firm had benefited from a number of regulatory provisions, including the unusual growth adjustment. However, the conclusion was reached that an exception should be granted assigning Parker as the base period supplier of those additional wholesale purchaser-consumers and bulk purchasers which it acquired as customers during the last quarter of 1978. The finding was made that this reassignment would provide Parker with the quanitity of gasoline necessary to alleviate the serious hardship which the firm was encountering. The Office of Hearings and Appeals also took the necessary steps in the *Parker* case to insure that the old supply obligations of other firms to the customers newly assigned to Parker would be terminated.

"J" Oil Inc., supra, involved a jobber which purchased a bulk plant and four retail outlets directly from the Continental Oil Company (Conoco). The firm also agreed to supply eight other retail outlets in the area that had recently been sold by Conoco. In concluding that relief was appropriate under the *Anger* standards, the Office of Hearings and Appeals found that the imposition of the new base period largely prevented "J" Oil from meeting the assurances it provided to the twelve outlets involved, each of which incurred substantial liabilities as a result of those assurances. The Office of Hearings and Appeals also held that the level of relief provided should correspond directly to the magnitude of the hardship caused by the imposition of the new base period. Accordingly, each of the twelve stations received an increase in its base period volume sufficient to compensate for the increase in monthly obligations assumed by the owner in his acquisition of the station.

(B) Price Disparity Cases

(i) Standards Applied in Price Disparity Cases: Since the implementation of the new base period, the Office of Hearings and Appeals has received many similar petitions from jobbers seeking the assignment of new base period suppliers. In a case of this nature, the jobber involved generally maintains that it and its customers are experiencing hardships and inequities because it is unable to obtain gasoline at competitive prices. The jobber typically argues that the wholesale price currently charged by its principal base period supplier is substantially in excess of the wholesale prices charged by other major suppliers in the area in which the jobber operates. As a result of this situation, the jobber generally argues that neither it nor its customers can resell at a profit the gasoline which it is entitled to purchase under the DOE allocation regulations. The jobber therefore requests the assignment of a new, lower-priced supplier of gasoline. This type of case is generally referred to as a price disparity case.

The Office of Hearings and Appeals and its predecessor, the Office of Exceptions and Appeals of the Federal Energy Administration, has granted relief to independent marketers that have demonstrated the existence of a serious hardship attributable to a price disparity of the type described in the preceding paragraph. *See, e.g., Wagner Gas & Electric,* 3 FEA Par. 83,031 (1975); *Greenville Automatic Gas Co.,* 2 FEA par. 83,337 (1975); *Colonial Oil Company,* 2 FEA Par. 83,201 (1975); *Midway Gas, Inc.,* 2 FEA Par. 83,154 (1975). When relief has been granted, the applicant was found to have experienced a substantial price disparity that was a serious threat to its continued existence as a viable business entity. The Office of Hearings and Appeals has held that, in order to qualify for relief in a price disparity case, an applicant must establish that:

(i) The price which it is required to pay its base period supplier(s) is significantly higher than the prevailing prices paid by its competitors; (ii) the firm has been unable to purchase sufficient quantities of surplus product at prices that would reduce its total cost of gasoline to a competitive level; and (iii) as a result of the high cost of purchasing gasoline from its base period supplier(s), the firm is experiencing serious financial and operating difficulties which threaten its continued existence as a viable independent marketer.

FEA Office of Exceptions and Appeals Guidelines, Fed. Energy Guidelines Par. 80,012; 41 F.R. 50858 (November 18, 1976).

(ii) Application of These Criteria: In order to satisfy the first criterion applicable to a price disparity case, a jobber must demonstrate that a significant price disparity exists. In evaluating whether an applicant is encountering a significant price disparity, the Office of Hearings and Appeals generally considers the following types of factors: (i) the current weighted average price charged by the base period suppliers of the firm involved; (ii) the prevailing rack prices charged by other major suppliers of gasoline in the area; (iii) the range of prices that prevail at the retail level in the area served by the jobber; and (iv) whether the jobber could in fact make product available to its customers at competitive prices. The Office of Hearings and Appeals will also consider any other supply, price, and marketing data which are relevant to the question of whether the jobber involved is facing a significant price disparity.

U.S. Oil Company, Case Nos. DEE–3174 and DEE–6387 (Proposed Decision issued November 2, 1979) illustrates the manner in which the Office of Hearings and Appeals evaluates whether a firm is encountering a significant price disparity. During the base period, U.S. Oil obtained approximately 78 percent of the gasoline it supplied to its rack sales customers through purchases of surplus gasoline on the Gulf Coast spot market. As a result of the updated base period regulations, the firms from which U.S. Oil made these spot purchases are now its base period suppliers. U.S. Oil argued that the prices which these spot market suppliers were charging were so high that the firm could not sustain its

competitive position. The data submitted by the firm supported this argument. For example, the data indicated that U.S. Oil's weighted average product cost exceeded the highest retail pump price in its market area during the months of April, June and July 1979. The Office of Hearings and Appeals also noted that the price which U.S. Oil was permitted to charge its customers would include taxes and transportation charges. When these factors were taken into consideration, the finding was made that the firm's rack sales customers could not have purchased Gulf Coast spot market gasoline from U.S. Oil during the March–September 1979 period and resold it on a competitive basis. The Office of Hearings and Appeals also observed that 91 percent of U.S. Oil's total allocation for November and December 1979 would be obtained from Gulf Coast spot market suppliers. The data submitted for the month of October indicated that a customer of U.S. Oil would face a total acquisition cost which exceeded the highest retail price in U.S. Oil's marketing area on October 15, 1979 by $.08 per gallon. In view of these considerations, the Office of Hearings and Appeals found that a significant price disparity existed and that new, lower-priced suppliers should be assigned to the applicant.

In *U.S. Oil,* the finding was made that the wholesale rack price of the jobber involved would exceed the highest retail price currently prevailing in the jobber's marketing area in the absence of exception relief. In other similar cases the Office of Hearings and Appeals has compared the wholesale rack price of the jobber's suppliers to the rack prices of other suppliers in the area. Two Decisions issued to the Onyx Corporation illustrate this analysis. *Onyx Corporation,* Case No. DEE–3280 (Proposed Decision issued July 16, 1979); *(Onyx I); Onyx Corporation,* Case No. BEE–0013 (Proposed Decision issued December 14, 1979) *(Onyx II).* Onyx is a wholesale purchaser-reseller operating in the St. Louis area. As a result of the new base period regulations, the firm's base period suppliers include two local suppliers, Marine Petroleum and Missouri Terminal. Onyx argued in each of its exception applications that it was experiencing a serious hardship as a result of the high prices charged by these two firms. In *Onyx I,* the Office of Hearings and Appeals found that the weighted average cost of the gasoline which Onyx was entitled to purchase from all of its base period suppliers during the June–September 1979 period was $.27 per gallon higher than the average wholesale rack price currently charged by suppliers other than Marine and Missouri Terminal in the firm's market area. Similarly, in *Onyx II* the finding was made that the firm's overall weighted average cost of gasoline during the November 1979–February 1980 period would exceed the average wholesale rack price charged by suppliers in the firm's marketing area other than Marine and Missouri Terminal by $.2444 per gallon. The Office of Hearings and Appeals held that price disparities of this magnitude satisfied the first criterion.

Similar price disparities were found to exist in two Decisions granting relief to H. L. Mills Petroleum Products. *H. L. Mills Petroleum Products,* Case No. DEE–2997 (Proposed Decision issued June 8, 1979) *(Mills I); H. L. Mills Petroleum Products,* Case No. BXE–0139 (Proposed Decision issued December 12, 1979) *(Mills II).* In *Mills I,* the Office of Hearings and Appeals found that during the month of May 1979 the weighted average cost of the gasoline which Mills was entitled to purchase from its base period suppliers exceeded the average cost of gasoline available from all suppliers in the firm's marketing area by $.226 per gallon. As in the *U.S. Oil* case, the retail outlets supplied by Mills would have been required to sell gasoline at prices above prevailing retail levels even if they simply sold product at cost. In *Mills II,* the Office of Hearings and Appeals found that on November 2, 1979, Mills' weighted average cost of gasoline purchased from its base period suppliers exceeded the average prevailing wholesale cost in its marketing area by $.32 per gallon. The finding was also made that the outlets supplied by Mills would operate at a loss if they sold product at competitive price levels.

Price disparities of a lesser degree than those found in the *Onyx* and *Mills* cases have also satisfied the first criterion. For example, in *Pilot Petroleum Associates, Inc.,* Case No. DEE–2243 (Proposed Decision issued May 25, 1979), the Office of Hearings and Appeals found that Pilot's weighted average cost of regular gasoline purchased from its base period suppliers during April 1979 amounted to $.791 per gallon, while the average wholesale price of the major suppliers in Pilot's marketing area amounted to $.662 per gallon. The Office of Hearings and Appeals held that this price disparity of $.129 per gallon satisfied the first criterion. In *L. S. Riggins Oil Company,* Case No. DEE–3603 (Proposed Decision issued July 12, 1979), the Office of Hearings and Appeals found that the delievered price of one of the applicant's principal base period suppliers was $.587 per gallon higher than the average price charged by other suppliers in the area. Although a specific analysis of the firm's overall weighted average cost was not made, the conclusion was reached that Riggins was facing a significant price disparity. In *Cheatham Oil Company,* Case No. DEE–5597 (Final Decision issued August 20, 1979), the firm presented data which indicated that the only gasoline it had been able to obtain had a weighted average wholesale price which was only $.018 below the prevailing retail pump prices in Cheatham's market area. The conclusion was reached that a significant price disparity existed, as in the *U.S. Oil* and *Mills* cases.

In several cases the Office of Hearings and Appeals concluded that the price disparity facing the jobber involved was not substantial enough to justify exception relief. For example, in *J. D. Streett & Co, Inc.,* Case No. DEE–3255 (Final Decision issued August 3, 1979), the Office of Hearings and Appeals found that Streett's average cost exceeded that of its competitors by only $.0105 per gallon. The finding was made that this disparity was not substantial enough to warrant exception relief. In *Gibble Oil Company,* Case No. DEE–4343 (Proposed Decision issued November 29, 1979), the data indicated that the firm's average cost of product from its based period suppliers exceeded the average cost of its competitors by $.052 per gallon. The Office of Hearings and Appeals stated that the question of whether a price disparity of this magnitude could be considered significant for purposes of the exceptions process would depend upon the applicant' financial situation and the market in which it operated. Since it appeared that Gibble would realize a reasonable profit from the sale of all of the gasoline which it was entitled to purchase from its base period suppliers, the conclusion was reached that the price disparity of $.052 per gallon was not significant. In denying an exception request in *Petco Oil Co., Inc.,* Case No. DEE–4042 (Final Decision issued August 20, 1979), the Office of Hearings and Appeals found that the applicant had realized gross margins of $.0463 to $.0488 per gallon during the March-May period while selling gasoline at competitive prices. As a result, the conclusion was reached that the firm was not facing a significant price disparity. *See also Gray Brothers Oil Company,* Case No. DEE–5237 (Proposed Decision issued September 14, 1979).

In order to satisfy the second criterion applicable to price disparity cases, a petitioner must demonstrate that it has been unable to purchase sufficient quantities of lower-priced surplus product to reduce its total costs to competitive levels. In virtually every case in which relief on these grounds has been approved since March of 1979, the Office of Hearings and Appeals has found that surplus product at reasonable prices has generally been unavailable as a result of the tight supply conditions which have existed since that month.

The third and final criterion pertains to the financial and operating difficulties which the jobber will experience in the absence of relief. In the majority of cases in which exception relief was approved, the Office of Hearings and Appeals concluded that the jobber involved had satisfied the third criterion by demonstrating that, in the absence of relief, it would sustain a sizeable loss on its operations. *See, e.g., Onyx I, supra; Onyx II, supra; U.S. Oil Company, supra; L. S. Riggins Oil Co., supra; Murray Oil Company; Marcum Oil Company,* Case Nos. DEE–2284, DEE–2263 (Proposed Decision issued May 8, 1979). In a number of cases, the specific conclusion was reached that the firm involved would be required to sell every gallon of gasoline it purchased at a loss in the absence of relief. *See, e.g., Petco Oil Co., Inc., supra; Gray Brothers Oil Co., supra; Gibble Oil Company, supra.*

(iii) The Nature of Relief Granted: The relief approved in a price disparity case generally relieves the firm involved of a portion of the burden which it would otherwise experience. However, relief is generally approved only for a limited period of time, and a firm desiring an extension of relief is required to file a new application. The Office of Hearings and Appeals has observed that a regular reivew of the relief afforded to a firm in a price disparity case enables the DOE to examine whether changes in market conditions have significantly altered the nature of the hardship or the inequity the firm was found to be experiencing. *See Mills II, supra.*

In *Pilot Petroleum Associates, Inc., supra,* the Office of Hearings and Appeals discussed in detail the level of relief which sould be granted to a firm once it has been determined that relief is appropriate. The conclusion was reached that the relief approved should enable Pilot to maintain a weighted average cost of product sufficient to allow the retail outlets supplied by the firm to sell gasoline at a price equivalent to the highest competitive retail price in the marketing area. In the *Pilot* case, the record indicated that the highest retail price in Pilot's marketing area on April 25, 1979 was $.829 per gallon for regular gasoline. After subtracting Pilot's historical markup per gallon, the sales tax, and the average retail dealer markup per gallon, the appropriate weighted average cost of gasoline to Pilot was established at $.675 per gallon. Exception relief was then calculated which resulted in a weighted average cost of gasoline of $.675 for Pilot's entire base period volume for April and May 1979, the months for which relief was approved.

In the *Pilot* case, two specific firms, Crown Central Petroleum Corporation and Chevron U.S.A. Inc., were directed to supply additional gasoline to Pilot. The designation of these firms was based on their long-standing historical relationship with Pilot. The Office of Hearings and Appeals found that the designation of these two firms to supply Pilot would have the least possible disruptive effect on the market, would avoid the problems associated with initiating completely new business relationships, and would not affect the current base period pruchasers of Crown or Chevron in an adverse manner. The division of the supply obligation between Crown and Chevron was based on the relative volumes of gasoline which the two firms supplied to Pilot in the past. On the base of all of these factors, the Office of Hearings and Appeals increased the supply obligations of Crown and Chevron and decreased the supply obligation of Northville Industries, Inc., Pilot's high-priced supplier, so as to arrive at an overall weighted average cost of product to Pilot of $.675 per gallon for April and May. The relief approved was based on the most recent price data available prior to the date of the Proposed Decision.

The methodology established in the *Pilot* Decision was also utilized to determine the level of relief which was approved in the *Mills I, Mills II,* and *Onyx II* Decisions. In each of these cases, however, the Office of Hearings and Appeals declined to select particular suppliers. Instead, the appropriate Regional ERA Office was directed to assign suppliers whose prices were within the competitive range of prices charged by the various suppliers in the marketing areas involved. The *Pilot* formula was modified so that ERA's designation of suppliers would take into consideration the prices charged by the base period suppliers of the firm receiving relief, as well as the average wholesale price charged by other firms in the marketing area. *See Mills II, supra.*

In *Cheatham Oil Company, supra,* as in the *Pilot* case, the Office of Hearings and Appeals found that it would not be necessary to direct the ERA to assign alternate suppliers to the firm. Instead, the Office of Hearings and Appeals assigned American Petrofina, Inc. (Fina) to supply Cheatham, noting that the prices charged by Fina at that time were within the competitive range and that Cheatham had a long-standing and amicable business relationship with Fina. However, a different method was utilized for determining the level of relief. Referring to *Greenville Automatic Gas Company, supra,* the Office of Hearings and Appeals held that the serious hardship being encountered by Cheatham would be alleviated if Cheatham had a weighted average cost of gasoline which permitted it to realize a reasonable markup and establish a competitive selling price. In accordance with the precedent established in the *Greenville* case, the following formula was utilized for determining the precise level of relief:

(Average competitive cost in the market area × volume required from new, lower-price supplier) + (Base period supplier's price × (base period use − volume required from new, lower-priced supplier)) = (Firm's current selling price − historic markup on sales) × (Base period use).

This is equivalent to:

((Average competitive cost in the market area) × (Percentage of base volume from new supplier)) + ((Base period supplier's price) × (Percentage of base period volume from base period supplier)) = (Current selling price of applicant) − (historic markup of applicant).

The *Greenville* formula was also applied in the *Murray Oil Company; Marcum Oil Company* and *Onyx I* cases. In each of these cases, however, the appropriate ERA Regional Office was directed to select and assign alternate, competitively-priced suppliers of gasoline to the firms involved.

(C) General Hardship Cases

(i) Standards Applied in Hardship Cases: As a general matter, exception relief may be approved if a firm is experiencing a serious hardship as a result of the operation of the DOE regulatory program. The evaluation of whether the serious hardship criterion has been satisfied in a specific case must be based upon the particular factual circumstances present in the case and the financial and operating position of the firm involved. In order to fully analyze a firm's financial position, the Office of Hearings and Appeals

generally considers the following types of factors: (i) the general profitability of the firm; (ii) cash flow difficulties which the firm may be experiencing as a result of the DOE regulatory program; (iii) the firm's historical and projected return on capital and return on equity; (iv) significant losses incurred in sales volume or in market share; and (v) financial difficulties which have resulted from the firm's inability to obtain sufficient supplies of product. *See FEA Office of Exceptions and Appeals Guidelines,* Fed. Energy Guidelines Par. 80,006, and cases cited therein.

A firm which demonstrates that it would be required to operate at a loss for an extended period of time or cease operating altogether will generally qualify for relief under the serious hardship criterion. However, an assessment will also be made of the extent to which the financial difficulties being experienced by the firm are the direct result of the DOE regulatory program. In order to qualify for exception relief, a firm must demonstrate that the difficulties it is encountering are directly attributable to the regulatory program from which the firm seeks relief. *See, e.g., Texas Asphalt and Refining Company; Petroleum Industries, Inc.,* 3 FEA Par. 80,529 (1975); *Wallace and Wallace Chemical and Oil Company,* 2 FEA Par. 83,207 (1975). The exceptions process is not intended to serve as a panacea for every conceivable type of financial problem encountered by any firm doing business in the petroleum industry. Instead, the approval of exception relief under the serious hardship criterion is designed to alleviate severe operating difficulties which have arisen as a result of the application to a firm of regulatory requirements.

(ii) Application of These Standards: In accordance with these general standards, the Office of Hearings and Appeals has granted exception relief to jobbers which have demonstrated that they were encountering serious financial difficulties as a result of the DOE regulatory program. For example, in Glenn Dobbs Oil Company, Case No. DEE–4211 (Final Decision issued November 2, 1979), the Office of Hearings and Appeals found that the firm would be unable to obtain and sell sufficient gasoline to meet its operating expenses in the absence of exception relief. Similarly, in *Moody Oil Company,* Case No. DEE–2831 (Final Decision issued October 25, 1979), the data indicated that the firm would incur a monthly operating loss of $6,099 in the absence of relief. The Office of Hearings and Appeals concluded that Moody's existence as a viable business entity would be seriously endangered in the absence of exception relief. In *Jerry Porter Oil Company,* Case No. DEE–5315 (Final Decision issued November 2, 1979), the Office of Hearings and Appeals concluded that the data presented by the firm supported its contention that it would be forced to declare bankruptcy in the absence of exception relief. In each of these three cases, the Office of Hearings and Appeals concluded that exception relief was appropriate under the serious hardship criterion. Similar conclusions were reached in *Corondolet Corporation,* Case No. DEE–2943 (Final Decision issued August 20, 1979); *Sav-Mor Oil Company,* Case No. DEE–3170 (Final Decision issued August 20, 1979); and *Ballance Oil Company,* Case No. DEE–2751 (Proposed Decision issued September 7, 1979).

In several cases the Office of Hearings and Appeals concluded that a firm was experiencing a serious hardship as a result of the low allocation fraction established by its supplier. In *G&G Oil Company,* Case No. DEE–4989 (Proposed Decision issued September 28, 1979), the Office of Hearings and Appeals considered an exception request filed by a jobber whose sole supplier had established a relatively low allocation fraction. The firm demonstrated the existence of a serious hardship by showing that it was unable to operate profitably with the volume of gasoline it could obtain. Other cases in which exception relief was granted to alleviate a serious hardship caused by a supplier establishing a low allocation fraction include *Fisca Oil Co., Inc.,* Case No. DEE–2505 (Final Decision issued June 8, 1979) and *Phillip Sloan Oil Company,* Case No. DEE–8280 (Proposed Decision issued October 31, 1979). In *Saveway Super Service Stations, Inc.,* Case No. DEE–3522 (Proposed Decision issued November 23, 1979), the petitioner also argued that it was experiencing a serious hardship as a result of a low allocation fraction. In denying this request, the Office of Hearings and Appeals found that the firm had failed to submit any financial data which supported its claim of serious financial injury. *See also G. D. Armstrong Co., Inc.,* Case No. DEE–2962 (Proposed Decision issued December 6, 1979).

The Office of Hearings and Appeals found that the applicant in *Keller-Piasa Terminals, Inc.,* Case Nos. DST–2234, DES–2234 (Temporary Stay Decision issued March 8, 1979; Stay Decision issued June 19, 1979) organized a business operation in 1978 which centered around buying motor gasoline on the Gulf Coast spot market at relatively low prices. The firm did not have any regular base period suppliers since its entire operation was based on its expectation that it would continue to be able to buy and resell Gulf Coast spot market gasoline. At the beginning of 1979, Gulf Coast spot market prices rose rapidly and Keller-Piasa found that it could not purchase surplus product and resell it at a profit. Stay relief was denied. The Office of Hearings and Appeals observed that this was not a situation in which a marketer with a significant history of operations purchased some motor gasoline on the spot market rather than from its established base period suppliers, in reliance on the assumption that it would always be able to return to its base period suppliers if it wished to do so. Rather Keller-Piasa organized its very business enterprise in order to speculate on Gulf Coast spot prices remaining below the prices charged by other suppliers. In organizing its entire business operation on those projections, the firm naturally assumed certain risks. One of those risks was a change in the Gulf Coast spot market. Under the circumstances, the Office of Hearings and Appeals concluded that it would not be appropriate to direct other types of suppliers with whom Keller-Piasa never maintained supply relationships to now furnish the firm with motor gasoline.

In other cases, exception relief has not been granted to firms which have failed to establish that their financial and operating difficulties are attributable to the DOE regulations. *Industrial Petroleum Supply of Evansville, Inc.* Case No. DEE–2404 (Final Decision issued October 4, 1979) involved a jobber whose monthly sales volume increased substantially after it acquired a new account, the New-Kro Oil Company, Inc., in September of 1978. In November of 1978, New-Kro voluntarily filed a petition in Bankruptcy. At that time New-Kro owed industrial approximately $131,000 for product which Industrial had already delivered for which it had not been paid. Until March 1979, Industrial continued to supply product without requiring New-Kro to pay in advance, since the cash flow generated by this procedure enabled Industrial to meet its financial obligation to LaGloria Oil and Gas Company, its supplier at that time. The updating of the base period and the establishment of an allocation fraction by LaGloria severely limited the quantity of gasoline which Industrial was able to obtain. Industrial claimed that it was unable to generate a

sufficient cash flow to meet its obligations to LaGloria, and the record indicated that Industrial would be required to file a petition in bankruptcy itself if it were unable to obtain product. However, Industrial's situation was found not to justify relief, since the record also indicated that the difficulties being experienced by New-Kro, and therefore by Industrial, were primarily attributable to poor management and a number of unwise business marketing decisions.

In *Baldwin Petroleum Co., Inc.*, Case No. DEE–3878 (Proposed Decision issued September 17, 1979), the Office of Hearings and Appeals also concluded that the firm had failed to show that its financial difficulties were attributable to the DOE regulations. In that case, the Office of Hearings and Appeals observed that the data submitted by the firm indicated that it had incurred continuing losses in its operations since 1977. As a result, the conclusion was reached that the new base period regulations had not precipitated the firm's current difficulties. In *Yates Store, Inc.*, Case No. DEE–3091 (Proposed Decision issued November 30, 1979), the Office of Hearings and Appeals also denied an exception request after determining that the hardship being experienced by the firm was not attributable to the regulations. In *Triad Oil Co.*, Case No. DEE–3818 (Proposed Decision issued October 26, 1979), the data submitted by the firm indicated that it would realize a substantial profit in the absence of relief and that it would not experience a serious hardship. In several other cases exception requests were denied after the Office of Hearings and Appeals concluded that the firms involved had failed to provide any support for their serious hardship claims. *See, e.g., Wells Petroleum Company*, Case No. DEE–2252 (Final Decision issued July 31, 1979) and *Elliott Oil Company*, Case No. DEE–6052 (Final Decision issued November 2, 1979).

(iii) The Nature of Relief Granted: The exception relief granted to a firm which is experiencing a serious hardship is generally designed to enable the firm to maintain its ongoing operations. Frequently, a firm receives an increased allocation which will enable it to meet its operating expenses or maintain a reasonably profitable and competitive operation. *See Jerry Porter Oil Company, supra; Moody Oil Company, supra; Phillip Sloan Oil Company, supra; Ballance Oil Company, supra.* In *Glenn Dobbs Oil Co., supra*, the Office of Hearings and Appeals concluded that the firm's hardship would be alleviated in a reasonable manner if its allocation were returned to its 1972 adjusted level. Similarly, in *Fisca Oil Co., Inc., supra*, the firm received exception relief for two months which entitled it to obtain its full 1978 monthly purchase volumes. In *G&G Oil Company, supra*, the conclusion was reached that the serious hardship being experienced by the firm would be alleviated it if received an exception from the DOE price regulations instead of from the allocation regulations. The exception granted in *Corondolet Corporation, supra*, enabled the firm to obtain gasoline from the firm which supplied it during January and February of 1979, since the delivery terms of that supplier enabled Corondolet to maintain its operations and avoid bankruptcy.

(D) Anomalous Base Period Cases

(i) The *Tenneco* Criteria: The quality of gasoline a firm is currently entitled to purchase under the DOE allocation regulations is generally determined by reference to the quantity of gasoline which the firm purchased during the corresponding month of the base period. To a certain extent, it is assumed that the base period chosen for measurement purposes constitutes a relatively normal and customary period of business activity for most firms. The Office of Hearings and Appeals has considered numerous exception requests filed by firms which maintain that they are unfairly and adversely affected by the allocation regulations because the base period chosen for measurement purposes does not constitute a relatively normal period of business activity in their case. In *Tenneco Oil Company*, 2 FEA Par. 83,108 (1975), the conclusion was reached that exception relief on gross inequity grounds might well be appropriate when a firm makes a convincing showing that:

(i) Unusual or anomalous events occurred during a base period; (ii) those conditions seriously distort the intended use of the base period for measurement purposes as a relatively normal and customary period of business activity; and (iii) the consequent distortion that resulted has adversely affected the firm in a significant manner.

See also Kerr-McGee Corp., 3 FEA Par. 80,566 (1976); *Potomac Gas Co.*, 3 FEA Par. 83,028 (1975); *Shawley's Superior L.P. Gas, Inc.*, 2 FEA Par. 83,341 (1975); *Headlee Oil Co.*, 2 FEA Par. 83,240 (1975); *FEA Office of Exceptions and Appeals guidelines*, Fed. Energy Guidelines Par. 80,006.

(ii) Application of These Criteria: *Lyon Oil Company*, Case No. DEE–2684 (Proposed Decision issued September 27, 1979) illustrates the manner in which the Office of Hearings and Appeals applies the Tenneco criteria to the factual circumstances which exist in a particular case. In June of 1977, Lyon's 1972 base period supplier, the Atlantic Richfield Company, ceased supplying the firm with product. Lyon indicated that this action was part of Arco's policy of withdrawing from the West Virginia marketing area. Lyon subsequently began purchasing gasoline on the spot market. However, the firm's financial position deteriorated after the Arco withdrawal to such a severe extent that the firm was placed in a temporary receivership on October 19, 1978 under Chapter XI of the Federal Bankruptcy Act. Lyon argued in its exception application that it would be unable to prepare a satisfactory Plan of Arrangement and emerge from the bankruptcy proceeding if it were limited to its allocation level under the new base period regulations.

After considering the Lyon request, the Office of Hearings and Appeals concluded that the firm had satisfied the *Tenneco* criteria. The data indicated that the volume of surplus gasoline which Lyon actually purchased during the new base period equalled only 45 percent of the volume of product which Lyon was entitled to purchase from Arco pursuant to its 1972 adjusted allocation level. The Office of Hearings and Appeals concluded that the circumstances which led to Lyon's decreased purchase volume during the new base period constituted anomalous events which seriously distorted the use of that period as a fair measure of the firm's normal and customary business activity. With regard to the third *Tenneco* criterion, the firm's current financial posture was accepted as proof that it had been and would continue to be adversely affected by the use of the new base period.

Relief under the *Tenneco* standards was also approved in *Saint George Oil Corporation*, Case No. DEE–3489 (Proposed Decision issued October 11, 1979). Saint George is a jobber which leased seven retail outlets in the Los Angeles area from the Atlantic Richfield Company during 1977. Saint George stated that it leased these seven outlets from Arco with the understanding that Arco would build the sales volumes at these outlets by instituting low pricing policies and building mini-markets. Saint George also stated that, after Arco failed to fulfill these promises, it decided to purchase gasoline directly from several Arco independent jobbers. Arco subsequently terminated Saint George's credit arrangements, an action which seriously curtailed Saint George's purchases of motor gasoline. Saint George then undertook the marketing of

its own brand of gasoline. In its application, Saint George argued that the dispute with Arco significantly depressed the firm's purchase volumes during the new base period. After reviewing the data submitted by the firm, the Office of Hearings and Appeals agreed that an exception was justified under the *Tenneco* standards. Regardless of the merits of the dispute between Saint George and Arco, the Office of Hearings and Appeals concluded that the dispute was an anomalous situation which seriously distorted the intended use of the base period as a characteristic period of business activity. With respect to the third *Tenneco* criterion, the Office of Hearings and Appeals found that the dispute with Arco had adversely affected Saint George in a significant manner. In this connection, the Office of Hearings and Appeals noted that the financial data submitted by the firm demonstrated that it incurred a loss during 1978 and the first fiscal quarter of 1979.

The finding that a business dispute which occurred during the base period constituted an anomalous event which justified exception relief was also made in *Midway Petroleum, Inc.*, Case No. DEE–3851 (Proposed Decision issued December 17, 1979). Midway is a jobber located in Baltimore, Maryland that operates four independent unbranded retail service stations through an affiliate. In its Application, Midway argued that, as a result of horizontal price-fixing among suppliers of unleaded gasoline in Maryland which began in 1973, it had been forced to cease operations at 19 retail service stations which it once operated. The firm observed that it was the complainant in a criminal case brought in the United States District Court for the District of Maryland alleging price fixing against six defendants, and that it had been awarded damages against five of the firms. Midway argued in its Application that, since it had initiated the price-fixing litigation, it had experienced considerable difficulty in obtaining adequate quantities of gasoline to enable it to operate profitably. The firm therefore requested an exception which would increase its allocation. The Office of Hearings and Appeals found that Midway had satisfied the *Tenneco* criteria. As in the *Saint George* case, the finding was made that, regardless of the merits of the legal dispute between Midway and five major suppliers of gasoline in its marketing area, the dispute constituted an anomalous situation which severely distorted the intended use of the updated base period as a characteristic period of business activity. With regard to the third *Tenneco* criterion, the Office of Hearings and Appeals concluded that Midway would operate at a loss in the absence of an exception increasing its allocation.

In another case, the Office of Hearings and Appeals found that a change in credit terms implemented by a firm's base period supplier had significantly reduced the firm's purchase volumes during the new base period and that exception relief under the *Tenneco* criteria was justified. *Allied Oil Company*, Case No. DEE–2420 (Final Decision issued June 19, 1979). In several other cases, the Office of Hearings and Appeals held that a firm had failed to demonstrate that it satisfied the *Tenneco* criteria. *Sanford Oil Co.*, Case No. DEE–7678 (Proposed Decision issued October 25, 1979) involved a firm which argued that its purchase volumes during the base period months of November and December were relatively low because its supplier established a relatively high price during those months of 1977. However, after examining the data submitted by Sanford, the Office of Hearings and Appeals found that the firm's purchase volumes during November and December of 1977 did not differ by a significant amount from the firm's average monthly purchase volume during 1978. As a result, the conclusion was reached that exception relief was not justified.

The petitioner in *Rudolph's, Inc.*, Case No. DEE–3056 (Proposed Decision issued October 23, 1979) also argued that its purchase volumes were depressed during the base period by the high price established by its supplier. The Office of Hearings and Appeals held that the events which led to Rudolph's comparatively low level of purchases during the new base period were not attributable to any unusual or anomalous events. Instead, the finding was made that the firm's low purchase volumes were attributable to its unwillingness to purchase gasoline at its supplier's lawful prices. The Office of Hearings and Appeals stated that the ordinary operation of marketing factors and strategies which result in the ability of some firms to sell their gasoline at lower prices than their competitors does not constitute the type of anomaly in the base period that warrants exception relief. *See also Sheehan Oil Company*, Case No. DEE–5561 (Proposed Decision issued September 17, 1979) and *Fleetwing Corporation*, Case No. DEE–2547 (Proposed Decision issued November 8, 1979).

The applicant in *The Gottlieb Corporation*, Case No. DEE–2269 (Final Decision issued August 20, 1979) also argued that an anomalous event had occurred during the base period which distorted the intended use of that period for measurement purposes. The Office of Hearings and Appeals found, however, that the reduction in purchase volumes experienced by Gottlieb was attributable to the expiration of supply contracts previously held by the firm. The Office of Hearings and Appeals held that the expiration of supply contracts and the loss of customer accounts were normal events encountered by a firm reselling gasoline at the wholesale level and not anomalous circumstances which could form the basis for exception relief.

(iii) The Nature of Relief Granted: The exception relief granted to a firm which satisfies the *Tenneco* criteria generally increase the firm's allocation only during those months of the base period during which anomalous events occurred. For example, in *Saint George Oil Corporation, supra*, the Office of Hearings and Appeals found that the firm's average monthly volume had been significantly reduced during the months of August through October by the dispute which the firm had with Arco. Exception relief increasing the firm's allocation to historical levels was granted for these months only. Similarly, in *Allied Oil Company, supra*, the conclusion was reached that Allied had been adversely affected by the implementation of the new base period regulations only during the months of March and April. The exception relief granted to the firm established allocation levels for these months based upon purchases made during the corresponding month of 1977. In *Midway Petroleum, Inc., supra*, the finding was made that an anomalous event occurred during the entire base period. The firm's allocation was increased by 90,000 gallons per month, since it appeared that this additional gasoline would enable the firm to operate its four stations profitably. Finally, in *Lyon Oil Co., supra*, the conclusion was reached that the exception granted to the firm should restore its 1972 adjusted allocation level.

(E) Other Types of Cases

The exception relief granted to a firm which satisfies the *Tenneco* criteria is intended to alleviate the gross inequity which the firm would otherwise experience as a result of the application of the DOE regulations. In another line of cases, the Office of Hearings and Appeals has held that expectation relief on gross inequity grounds is not warranted when that relief would

effectively insulate the firm from the gasoline shortage and enable the firm to implement a planned business expansion. For example, the applicant in *McMahon Oil Co., Inc.*, Case No. DEE–2346 (Final Decision issued July 3, 1979) stated that it had recently taken on a number of new accounts with the exception that it would be able to obtain sufficient supplies of surplus gasoline to continue to service those accounts. The firm argued that the implementation of the new base period regulations restricted its access to gasoline supplies and prevented it from obtaining the quantities of gasoline necessary to meet the needs of its present and future customers. In denying McMahon's exception request, the Office of Hearings and Appeals found that the difficulties being experienced by the firm were the result of its supplier's inability to furnish the surplus product it expected to have available. The Office of Hearings and Appeals stated that exception relief would not be appropriate to compensate McMahon for its reliance upon a supplier's assurance that sufficient surplus product would be available. The Office of Hearings and Appeals also observed that McMahon had realized a considerable benefit from the establishment of the new base period, since the firm's recent purchase volumes exceeded its 1972 adjusted allocation level.

The applicant in *Exum Collins Oil Co.*, Case No. DEE–3933 (Final Decision issued November 2, 1979) also argued that the implementation of the new base period prevented it from obtaining the increased volumes of gasoline which it anticipated it would be able to obtain. As in the *McMahon* case, the Office of Hearings and Appeals found that the establishment of an updated base period actually operated to the firm's benefit. The conclusion was also reached that Exum Collins had failed to satisfy the *Anger* criteria. The applicant in *River Oil Company of Jackson*, Case No. DEE–4972 (Proposed Decision issued October 18, 1979) stated that it purchased several gasoline reselling facilities with the expectation that it would be able to acquire surplus product to service the accounts. In accordance with the principle established in the *McMahon* case, the Office of Hearings and Appeals held that exception relief would not be granted to compensate the firm for its reliance upon a supplier's assurance that surplus product would be available.

In another line of cases, the Office of Hearings and Appeals has held that exception relief is not appropriate when that relief would merely enable a jobber to retain new accounts. For example, the applicant in *North Side Services*, Case No. DEE–3341 (Proposed Decision issued November 15, 1979) took on new accounts with the expectation of obtaining adequate surplus product to service those accounts. In denying the firm's request for an increased allocation, the Office of Hearings and Appeals observed that the new customers of North Side were entitled to purchase gasoline from the firms which supplied them during the base period. The conclusion was reached that it would be inappropriate to extend relief to North Side which would enable its customers to obtain gasoline in excess of the volumes they purchased during the new base period. *See also Rex Oil Company*, Case No. DEE–2418 (Final Decision issued August 20, 1979); *Port Oil Company, Inc.*, Case No. DEE–2867 (Final Decision issued August 20, 1979); *Vaughn Oil Company*, Case No. DEE–2358 (Final Decision issued October 18, 1979); *Royal Oil Company*, Case No. DEE–3096 (Final Decision issued November 2, 1979). In *Mohave Petroleum Company*, Case No. DEE–2743 (Proposed Decision issued November 30, 1979), the Office of Hearings and Appeals found that the increased demand enjoyed by the firm during the latter part of 1978 was attributable to a temporary shortfall of unleaded product in its marketing area during that time period, and not to any significant alteration in the firm's ongoing business practices. As a result, the conclusion was reached that an exception increasing the firm's allocation for the base period months in which it had a relatively low allocation was not justified. In accordance with the principles discussed above, the Office of Hearings and Appeals also held that Mohave's inability to expand at anticipated levels did not justify relief.

In another case, the Office of Hearings and Appeals held that exception relief would not be granted to a firm which consistently misrepresented the factual basis underlying its requests for administrative relief. *Acomi Corporation*, Case No. DEE–2465 (Final Decision issued October 31, 1979). Acomi is a jobber that operates in the Greater Boston metropolitan area. Immediately after the ERA issued the Activation Order which updated the base period for the months of March, April, and May, Acomi filed an Application for Temporary Stay requesting that the DOE order a firm other than its base period supplier, Belcher New England, to supply Acomi with gasoline. Acomi argued that Belcher's high price and low allocation fraction prevented it from obtaining adequate volumes of competitively priced gasoline. A hearing was held in connection with the Acomi temporary stay request on March 6, 1979, and relief was granted to the firm at the conclusion of that hearing. *Acomi Petroleum*, 3 DOE Par. 82,027 (1979). A stay issued to Acomi on April 4, 1979 extended further relief to the firm. As a result of these two Decisions, Acomi obtained a total of 1,429,353 gallons of motor gasoline from competitively priced suppliers during the March–May 1979 period.

In connection with the Acomi exception proceeding which was still pending, the Office of Hearings and Appeals requested additional information from the firm on several occasions. The information obtained demonstrated that Acomi had made a number of serious factual misrepresentations in the petitions it filed with the Office of Hearings and Appeals. The record also indicated that Acomi sold as surplus product a significant quantity of the gasoline which it obtained pursuant to Orders issued by the Office of Hearings and Appeals. In addition, the record indicated that, despite the relief it had received, Acomi failed to supply any gasoline to at least 29 base period purchasers and new accounts during either April or May 1979.

The Office of Hearings and Appeals stated in the *Acomi* case that the posture before the tribunal of an applicant seeking equitable relief is a very important consideration in the case under consideration. Referring to several Decisions of the United States Supreme Court, the Office of Hearings and Appeals found that equitable relief could and should be withheld from a firm whose conduct in relation to the subject matter of the proceeding could be said to have transgressed equitable standards of conduct. In view of the consistent serious misrepresentations made by Acomi and the conduct of the firm after it received equitable relief, the Office of Hearings and Appeals concluded that the Acomi exception request should be denied in full and that Acomi should return the motor gasoline it received to the new suppliers assigned as a result of the March 6 and April 4 Decisions.

III. Class Proceedings

The base period change implemented on March 1, 1979 affected every firm in the petroleum industry which is engaged in the sale of motor gasoline. In many instances, a large number of similarly situated firms found that they were

adversely affected in similar ways by the change in the base period. As a result, a number of proceedings were initiated in which relief was sought on a class basis on behalf of a large number of applicants. Section A below discusses the criteria which the Office of Hearings and Appeals has generally applied to class exception proceedings. Section B discusses a number of specific class proceedings initiated after March 1, 1979 in which exception relief from the gasoline allocation regulations was granted.

(A) Class Exception Criteria

The Office of Hearings and Appeals and its predecessor, the Federal Energy Administration Office of Exceptions and Appeals, have considered many requests for class exception relief. *See Retroactive Application of the Separate Inventories Amendment,* 4 FEA Par. 83,099 (1976); *National LP-Gas Association,* 3 FEA Par. 83,047 (1975); *Class Exception—Retroactive Application of Subpart K,* 2 FEA Par. 84,901 (1975); *County of San Diego,* 1 FEA Par. 20,667 (1974). In considering class exception cases, the Office of Hearings and Appeals has referred to Rule No. 23 of the Federal Rules of Civil Procedure for guidance as to the standards which might be used in administrative class action proceedings. Under Rule No. 23(a), a class action may be maintained:

only if (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.

Exception relief on a class basis will generally not be granted unless each of these criteria have been satisfied.

(B) Application of These Criteria

(i) Class Proceedings Initiated by Refiners: The base period was initially updated effective March 1, 1979 by the provisions of the Activation Order issued on February 22, 1979. The Activation Order, until it was amended on May 1, 1979, did not include any provision for an increased allocation to reflect growth which had occurred since the new base period. A substantial percentage of the exception applications filed with the Office of Hearings and Appeals during March and April were submitted by individual retail outlets which had experienced significant growth since the new base period. Several refiners elected to file exception applications seeking relief on behalf of particular classes of their branded retailers who had experienced significant growth and who were adversely affected by the new base period regulations. These class exception requests pertained to the March–May period, the only months for which the Activation Order initially applied. For example, the Amoco Oil Company (Amoco) filed such an Application on behalf of approximately 500 branded Amoco dealers on March 23, 1979, while Chevron U.S.A. Inc. (Chevron) filed an application of this nature on behalf of approximately 450 Chevron customers on April 2, 1979. Final Decisions were issued with respect to these class exception requests on June 22, 1979. *Amoco Oil Company,* Case No. DEE–2257 (Final Decision issued June 22, 1979); *Chevron U.S.A. Inc.,* Case No. DEE–3153 (Final Decision issued June 22, 1979). The Shell Oil Company also filed a class exception application of this nature (Case No. DEE–2894) on March 23, 1979.

In the *Amoco* case, Amoco argued that the following three classes of Amoco dealers would experience serious hardships during the March–May period unless exception relief were approved:

(i) retail gasoline dealers who had made capital investments of $10,000 or more in their marketing facilities during 1978 and who would not realize the benefit of such investments if restricted to the volumes of gasoline purchased during the new base period (Class 1);

(ii) retail gasoline dealers whose average monthly purchase volumes during the October 1978–January 1979 period represented a 35 percent increase over average monthly purchase volumes during the March–May 1978 period, an increase which was attributable to substantial changes in the station's mode of operation or in the area demand pattern (Class 2); and

(iii) retail gasoline dealers not included in Classes (1) or (2) above whose average monthly purchase volumes during the October 1978–January 1979 period represented a 35 percent increase over average monthly purchase volumes during the March–May 1978 period and who would be unable to recover their operating expenses under normal operating practices without an increased allocation (Class 3).

The Office of Hearings and Appeals concluded that Amoco had satisfied all of the criteria applicable to class exception proceedings that were described in Section (A) above. With regard to the first criterion (joinder), the Office of Hearings and Appeals found that the large number of firms involved (508 branded dealers) made joinder impracticable. With regard to the second criterion (common questions of fact or law), the Office of Hearings and Appeals observed that Amoco had provided extensive data and documentation which indicated that dealers within each of the three classes identified by Amoco would incur serious financial injuries unless Amoco were permitted to supply them with volumes of gasoline in excess of those which they purchased during the new base period. As a result, the conclusion was reached that questions of fact or law common to the classes of branded dealers involved did exist. With regard to the third criterion (claims of representative parties), the Office of Hearings and Appeals found that, for each class of firms identified by Amoco, each firm within that class was placed in a similar situation and had made a similar claim. With regard to the fourth criterion (adequate representation), the Office of Hearings and Appeals held that Amoco would fairly and adequately protect the interests of the classes. In this regard, the Office of Hearings and Appeals observed that Amoco had demonstrated diligence in filing well-supported submissions and in pursuing the interests of the classes.

After the conclusion was reached that Amoco had satisfied the criteria applicable to class proceedings, the Office of Hearings and Appeals evaluated whether exception relief should be approved. After examining the data submitted by Amoco, the affidavits submitted by a large number of Amoco dealers, and the precedents already established, the Office of Hearings and Appeals concluded that exception relief was appropriate. This conclusion was largely based upon the finding that the Amoco dealers identified in Classes (1) and (2) above, respectively, satisfied the standards set forth in *Leo Anger, Inc., supra,* and *Duncan Oil Company,* Case No. DEE–2259 (Final Decision issued June 20, 1979). The findings reached and the criteria established in the *Duncan* case were described in considerable detail in Part One of these Guidelines, issued on July 3, 1979. The conclusion was also reached in the *Amoco* case that exception relief was warranted for those firms included in Class (3) above. The Office of Hearings and Appeals observed in this regard that it had previously held that exception relief was appropriate where a convincing showing was made that the DOE regulatory program had undermined a firm's competitive position to such an extent that it was experiencing a serious financial hardship. *See Commonwealth Oil Refining Co., Inc.,* 3 FEA Par. 83,178 (1976); *New England Petroleum Corporation,* 2 FEA Par. 83,136 (1975). A Proposed Decision and an Interim Order

containing these conclusions were issued on April 16, 1979.

The *Chevron* case was similar to the *Amoco* case in many respects. Chevron requested exception relief on behalf of the following Chevron motor gasoline customers:

(i) Branded retail outlets which underwent changes in their methods of operation as a result of significant investments made during or since the new base period and which were experiencing economic difficulties as a result of their inability to obtain sufficient quantities of gasoline (Class 1);

(ii) Branded retail outlets which were initially established during the new base period and which did not attain expected sales volumes during the new base period (Class 2);

(iii) Branded retail outlets which were closed during all or part of the new base period and which had been reopened or would be reopened, with no significant investment (Class 3); and

(iv) Unbranded retail stations, unbranded jobbers, and wholesale purchaser-consumers which were purchasing gasoline from Chevron on March 1, 1979, but which had a different supplier during March, April, or May 1978 (Class 4).

As in the *Amoco* case, the Office of Hearings and Appeals concluded in the *Chevron* case that all of the criteria applicable to class exception proceedings had been satisfied. With respect to the first criterion (joinder), the Office of Hearings and Appeals observed that Chevron had requested relief on behalf of 268 branded dealers and 184 other purchasers of gasoline. The conclusion was reached that the large number of individual firms involved made joinder impracticable. With regard to the second criterion (common questions of fact or law), the Office of Hearings and Appeals found that the manner in which the Activation Order affected the firms included in each of the four classes identified by Chevron appeared to be a function of the factual characteristics used to define the class. As a result, the conclusion was reached that questions of fact or law common to the classes involved did exist. With regard to the third criterion (claims of representative parties), the Office of Hearings and Appeals found that, for each of the four classes identified by Chevron, each firm within the class had advanced a similar claim. Finally, the Office of Hearings and Appeals concluded that Chevron had satisfied the fourth criterion applicable to class proceedings (adequate representation). The data and testimony presented at a hearing held in connection with the Chevron application, as well as Chevron's diligence in pursuing class relief, demonstrated that Chevron would fairly and adequately protect the interests of the classes.

The relief granted to the Chevron dealers included in Classes (1) and (2) above was similar in many respects to the relief granted in the *Amoco* case to the branded dealers included in Amoco's Classes (1) and (2). Relief was generally extended to the firms in Chevron's Classes (1) and (2) in accordance with the principles enunciated in the *Anger* and *Duncan* cases, respectively. The Office of Hearings and Appeals also found that the dealers included in Chevron's Class (3) were entitled to exception relief under the *Duncan* standards.

Class (4) identified by Chevron was comprised of unbranded customers who began purchasing gasoline from Chevron after May 1978. Many of these firms argued that their actual base period suppliers had established relatively low allocation fractions and that they would experience economic hardships unless they were able to obtain product from Chevron. The Office of Hearings and Appeals observed in the *Chevron* case that it had generally held that a firm which cannot procure a substantial portion of its base period volume from its base period suppliers and which believes that it cannot sustain its ongoing operations without additional gasoline supplies should file an Application for Assignment with the appropriate ERA Regional Office. However, the conclusion was reached in the *Chevron* case that exception relief should be approved for certain members of Chevron's Class (4). The relief was limited to those firms that: (i) purchased an average of 90 percent or more of their gasoline requirements from Chevron during January and February of 1979; (ii) purchased 75 percent or more of their gasoline requirements from Chevron during the October–December 1978 period; and (iii) possessed base period suppliers other than Chevron that would have average allocation fractions of 75 percent or less during the March–May 1979 period.

(ii) Class Proceedings Initiated by the Office of Hearings and Appeals: Subsequent to the implementation of the new base period on March 1, 1979, a large number of retail outlets sought and received similar exception relief from the Office of Hearings and Appeals. On its own motion, The Office of Hearings and Appeals initiated class proceedings on several occasions in an effort to streamline the administrative process, to reduce the burdens which many firms would otherwise incur in their efforts to obtain exception relief, and to insure that firms desiring exception relief would receive that relief in a timely fashion.

A class proceeding of this nature was initiated by the Office of Hearings and Appeals during the month of April 1979. *Class Exception Proceeding Adjusting April 1979 Base Period Volumes of Motor Gasoline for Retail Sales Outlets and Wholesale Purchaser-Consumers*, Case No. DEE–3726 (Final Decision issued June 22, 1979). On April 17, 1979, the ERA issued a Notice stating its intention to promulgate certain rules pertaining to the allocation of gasoline. 44 Fed. Reg. 23537 (April 20, 1979). Among other things, the ERA indicated that it intended to adopt a growth adjustment provision to the allocation rules with a growth threshold of 10 percent, beginning in the month of May 1979. The ERA also indicated that a similar growth adjustment would be adopted for the month of April 1979, with a growth threshold of 35 percent.

On April 19, 1979, the Office of Hearings and Appeals issued a Proposed Decision and Order which concluded that serious hardships, gross inequities, and unfair distribution of burdens would result unless the growth adjustment contemplated for April 1979 were implemented immediately. The Proposed Decision also concluded that an exception should be granted to the class that would be benefited if the ERA rule were ultimately adopted. An Interim Order which implemented the relief set forth in the Proposed Decision on an immediate basis was also issued on April 19, 1979.

The Office of Hearings and Appeals based its conclusion that a class exception was justified primarily on the experience it had acquired in considering the numerous petitions filed with it by retail outlets requesting exceptions from the gasoline allocation regulations. In this regard, the Office of Hearings and Appeals discussed the *Amoco* class proceeding, as well as the precedents established in the *Duncan* and *Anger* cases. The conclusion was reached that those retail outlets and wholesale purchaser-consumers that had experienced substantial growth since the new base period and that qualified for an increased allocation during April under the ERA proposal would in all likelihood qualify for relief on an individual basis under standards such as those established in the *Anger*, *Duncan*, and *Amoco* cases. However, the Office of Hearings and Appeals noted that, in view of its limited resources, it would be unable to issue Decisions to all of the firms which qualified for relief before the end of April. As a result, the Office of Hearings

and Appeals concluded that exception relief on a class basis was justified.

In considering the class exception criteria, the Office of Hearings and Appeals first found that the vast majority of firms involved clearly made joinder impracticable. The Office of Hearings and Appeals also found that the record in dozens of cases that had already been decided indicated that firms which had experienced substantial growth of the type which characterized the class involved would experience the same basic type of adverse impact as a result of the Activation Order in the absence of an exception. As a result, the Office of Hearings and Appeals concluded that the basic factual pattern as well as the adverse impact involved were common to the members of the class affected by the proceeding. Moreover, the finding was made that, in view of the record already established in cases decided by the Office of Hearings and Appeals, it was likely that firms which had experienced considerable growth subsequent to the base period would also satisfy the other specific standards which had been articulated in other Decisions as the basis for the approval of an exception. Under the circumstances, the conclusion was reached that there were questions of law and fact common to the class (criterion two) and that the relief involved was also applicable to the entire class.

In another class proceeding involving a large number of retail outlets, the Office of Hearings and Appeals considered in detail how all four class exception criteria would be satisfied in a proceeding initiated by the Office of Hearings and Appeals. *Class Exception Proceeding Concerning Extension of Relief Previously Granted in Certain Motor Gasoline Allocation Cases*, Case No. DEE–6525 (Final Decision issued June 18, 1979). In this class proceeding, exception relief previously granted to 98 firms under the *Anger* and *Tidwell (James Tidwell Chevron*, Case No. DEE–2398 (Final Decision issued June 8, 1979)) criteria during the March–May 1979 period was extended through September 1979. The Office of Hearings and Appeals held that the findings reached in the various Decisions issued to these 98 firms during the March–May period also applied to the June–September period and that continued exception relief was therefore justified.

In concluding that an exception should be approved on a class basis, the Office of Hearings and Appeals first determined that, in view of the practical difficulty of issuing prompt determinations in all cases involving serious financial injuries, the large number of firms involved made joinder impracticable. With regard to the second criterion for class relief (common questions of fact or law), the Office of Hearings and Appeals observed that the Decisions granting initial exception relief to the 98 firms involved were decided by reference to the same legal principles. As a result, the conclusion was reached that there was a question of law common to each of the members of the *Anger* and *Tidwell* classes. With regard to the third criterion (claims of representative parties), the Office of Hearings and Appeals found that the only claims or defenses relevant to the class proceeding were (i) claims or defenses already presented in prior proceedings, and (ii) claims or defenses resulting from changed circumstances affecting the additional period with respect to which relief was being considered but not affecting the prior periods in which it was granted. In view of its determination that the Decision should include a means of discovering such changed circumstances and of terminating relief when necessary, the Office of Hearings and Appeals concluded that each of the members of the *Anger* and *Tidwell* classes did possess common claims typical of the class. With respect to the fourth criterion (adequate representation), the Office of Hearings and Appeals noted that each party had been given an opportunity to present relevant arguments in cases which were individually decided. As a result, the finding was made *a fortiori* that the class was fairly and adequately represented.

(iii) Class Proceedings Initiated by Jobber Associations: The Office of Hearings and Appeals has also considered several class exception proceedings initiated by jobber associations. *Stechschulte Gas & Oil Company*, Case No. DEE–3621 (Final Decision issued July 25, 1979); *Fina Jobbers Association, Inc.*, Case No. DST–5568 (Temporary Stay Decision issued June 19, 1979); Case No. DEL–5568 (Temporary Exception Decision issued August 29, 1979); Case No. DEE–5568 (Proposed Decision issued January 11, 1980).

The *Stechschulte* case involved a firm which filed an Application for Exception on behalf of itself and all branded jobbers of the Union Oil Co. of California located east of the Rocky Mountains. The exception request was based upon the financial difficulties which the jobbers maintained they were experiencing as a result of the implementation of the new base period. The jobbers observed that Union did not sell regular motor gasoline through its branded retail outlets in its Eastern Region during the period from mid-1974 through mid-1978. As a result, the Union jobbers argued that the use of a portion of this period as the base period for gasoline allocation resulted in hardships and inequities. The Office of Hearings and Appeals agreed with this argument, and relief was granted to the Union jobbers for the March-May period.

In the *Fina Jobbers* case, the applicants argued that they were experiencing serious hardships and gross inequities as a result of the relatively low allocation fraction established by American Petrofina, Inc. (Fina), their primary supplier. The Fina jobbers requested that an exception be approved which would transfer enough gasoline to Fina to allow the firm to establish an allocation fraction of at least 75 percent. Although the temporary stay requested by the Fina jobbers was denied in the June 19, 1979 Decision, the Motion for Class Certification was approved. Exception relief was approved in a temporary exception granted to Fina Jobbers on August 29, 1979 and in the Proposed Decision issued to Fina Jobbers on January 11, 1980.

The evaluations of the Motions for Class Certification filed by Stechschulte and Fina Jobbers were similar in many respects. In both cases, the Office of Hearings and Appeals concluded that the large number of firms involved made joinder impracticable. The *Stechschulte* case involved 543 branded Union jobbers, while the *Fina Jobbers* case involved 482 branded Fina jobbers. The Office of Hearings and Appeals also found in each case that the branded jobber status of the firms involved indicated that common questions of fact and law existed. In the *Stechschulte* case, the Office of Hearings and Appeals noted that all branded Union jobbers in Union's Eastern Region were apparently adversely affected in a similar manner by the implementation of the new base period regulations. In the *Fina Jobbers* case, the Office of Hearings and Appeals found that all branded Fina jobbers who primarily relied upon Fina for gasoline supplies were significantly and adversely affected by the low allocation fraction established by Fina. As a result, the class was limited to those branded Fina jobbers that obtained at least 75 percent of their gasoline supplies during the new base period from Fina.

With regard to the third criterion applicable to class exception proceedings (claims of representative

parties), the Office of Hearings and Appeals found in the *Stechschulte* case that the situation faced by Stechschulte as a typical Union jobber was similar to the situation faced by all other Union jobbers in Union's Eastern Region. In the *Fina Jobbers* case, the Office of Hearings and Appeals observed that Fina Jobbers was organized for the very purpose of representing the interests of the branded Fina jobbers. Consequently, pending further factual development, the Office of Hearings and Appeals made the tentative finding that the claims of the applicant were typical of those of the class. With respect to the fourth criterion applicable to class proceedings (adequate representation), the Office of Hearings and Appeals observed in both cases that the attorneys representing the parties involved had considerable experience in proceedings before the DOE. In fact, in the *Fina Jobbers* case it was again noted that the organization had been formed apparently for the express purpose of representing the interests of the Fina jobbers in the exception proceeding.

IV. Gasohol Cases

The Office of Hearings and Appeals has issued numerous Decisions and Orders with respect to requests for increased allocations of unleaded gasoline for the purpose of blending gasohol. "Gasohol" is a trademark held by the State of Nebraska for a petroleum product created when unleaded gasoline and ethyl alcohol are blended in a 9 to 1 ratio. The evidence presented to the DOE indicates that gasohol may be utilized as a fuel for vehicles with conventional gasoline-powered engines without the need for any modification to the engines of the vehicles. *See Illinois Petroleum Marketers Association*, 1 DOE Par. 82,028 (1978). The Office of Hearings and Appeals has found that the manufacture and use of gasohol would result in an eventual reduction in the demand for gasoline and that the President has explicitly encouraged the development of gasohol and other alternative energy sources in order to reduce the nation's dependence upon foreign energy supplies. *See American Agri-Fuels Corporation*, Case No. DEE–2179 (Final Decision issued August 28, 1979); *Fannon Petroleum Services, Inc.*, Case No. DEE–3884 (Final Decision issued September 17, 1979). As the Office of Hearings and Appeals has held on a number of prior occasions, exception relief on gross inequity grounds is appropriate when the application of a regulatory requirement to a particular set of facts frustrates the attainment of a statutory or regulatory objective. Based on this principle, the Office of Hearings and Appeals has granted allocations of unleaded gasoline for the purpose of blending and marketing gasohol where the applicant convincingly demonstrates that: (i) a demand for gasohol exists in its market area; (ii) the applicant is in an advantageous position to further the production and use of gasohol; (iii) the applicant has made a substantial commitment of resources towards gasohol production and marketing; and (iv) the DOE regulations substantially limit the volume of unleaded gasoline available to the applicant for blending into gasohol or otherwise significantly frustrate the applicant's gasohol project. *See American Agri-Fuels Corp., supra; Fannon Petroleum Services, Inc., supra; compare Tri-Cor Petroleum, Inc.*, Case No. DEE–5457 (Proposed Decision issued November 2, 1979). For example, in the *American Agri-Fuels* case, *supra*, the applicant's firm was formed for the express purpose of producing and marketing gasohol beginning in May 1979. However, since the firm lacked a base period supplier of gasoline it could not obtain an assured supply of unleaded gasoline with which to blend its supply of alcohol. Consequently, the firm's efforts to market gasohol on an efficient and economical basis were severely frustrated. The Office of Hearings and Appeals therefore granted the applicant an allocation of unleaded gasoline that would alleviate this gross inequity and enable the firm to operate its new gasohol blending facility effectively. *See also Gasohol, Inc.*, Case No. DEE–7912 (Proposed Decision issued November 7, 1979).

Similarly, in the *Fannon Petroleum* case, *supra*, the applicant had been blending and marketing gasohol since May 1978. However, under the updated DOE regulations the firm was required to resell virtually all of the unleaded gasoline that it was able to obtain to satisfy existing supply obligations.

Since it was unable to obtain surplus unleaded gasoline at reasonable prices or to retain for gasohol purposes any of the unleaded gasoline it was entitled to purchase from its base period suppliers, Fannon indicated that it was required to restrict its gasohol operations precisely when the public demand was very strong. Based upon the precedent established in *American Agri-Fuels*, the Office of Hearings and Appeals approved an exception to provide Fannon with sufficient supplies of unleaded gasoline to maintain its gasohol program. *See also Oil Products Company, Inc.*, Case No. BEE–0258 (Proposed Decision issued December 17, 1979); *Lawrence & Sons Oil Company, Inc.*, Case No. BEE–0237 (Proposed Decision issued December 13, 1979).

It should be emphasized that a firm seeking an allocation of unleaded gasoline for gasohol purposes on gross inequity grounds must affirmatively demonstrate the degree to which it has already committed resources to gasohol production. In order to satisfy this important requirement, the applicant must describe in detail the value and nature of any capital investments it has made for gasohol-related facilities and equipment. Furthermore, the applicant must demonstrate that it has attempted to blend and market gasohol making use of the supply of unleaded gasoline the firm is already entitled to purchase pursuant to the DOE regulations. For example, in *Kirschner Brothers Oil Company*, Case No. DEE–7408 (Proposed Decision issued January 18, 1980), the applicant was a jobber which supplied approximately 90 retail outlets, 16 of which the firm operated itself. The firm indicated that it intended to lease certain gasohol blending facilities that were currently owned and operated by the Cities Service Company as part of the latter's own gasohol marketing project. However, the applicant had not yet signed any agreement with Cities Service, nor had the firm made any capital investment in its own blending facilities. In addition, the majority of the gasoline the firm was entitled to purchase from its existing base period supplier was sold through Kirschner's own retail outlets. Nonetheless, the firm had not yet attempted to blend any of its assured supply of unleaded gasoline into gasohol for sale at its own retail outlets. Under these circumstances, the Office of Hearings and Appeals concluded that the applicant had failed to convincingly demonstrate that it had made a sufficient commitment of resources to gasohol production or that the DOE regulations frustrated the firm's gasohol project. Consequently, the Office of Hearings and Appeals determined that the application should be denied.

Because the approval of an allocation of unleaded gasoline for gasohol generally entails the diversion of supplies of that product on a pro rata basis from other motor gasoline purchasers, the Office of Hearings and Appeals has carefully scrutinized the volumes of gasoline requested by applicants. As a result, the Office of Hearings and Appeals will generally limit the volume of unleaded gasoline granted to a successful applicant to a level which corresponds to the lesser of the firm's demonstrated gasohol production capacity and the demonstrated market demand for its

gasohol. *See Lawrence & Sons Oil Company, supra; Tyson Oil Company, supra; Gasohol, Inc., supra.* In addition, to the extent that the applicant already has an assured supply of unleaded gasoline under the DOE allocation regulations which is available for blending into gasohol, the volume of relief will be reduced in order to require it to use a reasonable portion of its available supplies for blending purposes. *See Oil Products Co., Inc., supra; Tri-Cor Petroleum, Inc., supra; Marshall Oil Company, Inc.,* Case No. DEE–7869 (Proposed Decision issued November 23, 1979). As for the selection of a suitable supplier of any increased allocation granted to a successful applicant, the Office of Hearings and Appeals has generally directed the appropriate Regional Office of the Economic Regulatory Administration to review the supply capabilities of the major suppliers in the applicant's market area and determine the extent to which those suppliers would be adversely affected by an order assigning them to supply the applicant with the increased volume of unleaded gasoline. Based on its findings, the ERA Regional Office issues assignment orders to those suppliers which in its discretion are most appropriate. *See Tri-Cor Petroleum, Inc., supra; Tyson Oil Company, supra.* However, the Office of Hearings and Appeals has exercised its discretion to directly assign suppliers for the relief granted in the exception proceeding where: (i) the volume of exception relief is relatively low; (ii) the applicant already has a base period supplier; and (iii) the administrative record in the exception proceeding clearly indicates that the base period supplier is capable of furnishing the relief volume and will not incur a significant adverse impact as a result of the increased supply obligation. *See J. M. Davis Industries, Inc.,* Case No. DEE–8081 (Proposed Decision issued January 7, 1980) (95,000 gallons per month relief); *Tomahawk Oil Co.,* Case No. BEE–0331 (Proposed Decision issued January 11, 1980) (10,000 gallons per month relief); *Musolino and Sons, Inc.,* Case No. DEE–6199 (Proposed Decision issued January 4, 1980) (33,000 gallons per month relief).

While the majority of the gasohol exception applications have related to requests for relief from the DOE allocation regulations, the Office of Hearings and Appeals has also granted numerous requests for relief from the regulations which govern the price which may be charged for gasohol. In particular, several refiners filed applications in which they argued that the price regulations prevented them from recouping the full cost of the alcohol component of gasohol in the price they were permitted to charge for gasohol itself. Such a result, the applicants argued, created an economic disincentive to their respective gasohol operations and thereby frustrated the national objective of developing gasohol as an alternative energy source. *See, e.g., Texaco, Inc.,* Case No. DEL–7209 (Temporary Exception Decision issued September 14, 1979); *Amoco Oil Co.,* 3 DOE Par. 82,073 (1979); *Cities Service Company,* Case No. DEL–8088 (Temporary Exception Decision issued September 28, 1979). The Office of Hearings and Appeals found these circumstances to constitute a gross inequity and granted the individual applicants relief from the price regulations that were specifically designed to eliminate the economic disincentive which existed by permitting the firms to include the full cost of the alcohol in their maximum allowable gasohol prices. To the extent that an applicant at any level of the chain of distribution can convincingly demonstrate that the price regulations continue to create a prohibitive disincentive towards the increased production and marketing of gasohol, the Office of Hearings and Appeals is prepared to consider a request for exception relief which will eliminate that disincentive.

V. Price Relief Cases

As noted earlier, on July 15, 1979, the ERA amended the gasoline price regulations applicable to retail outlets by establishing a fixed margin ceiling of 15.4 cents per gallon. During the month of August 1979, a number of entities requested immediate temporary stay or stay relief from the provisions of the new pricing rule, pending final determinations on subsequent Applications for Exception. In a series of Decisions issued with respect to these requests for stay relief, the Office of Hearings and Appeals discussed the type of factors which would be considered in connection with cases of this type. *State of Alaska,* Case No. DES–7639 (Stay Decision issued August 8, 1979); *Southern California Service Station Association,* Case No. DST–0071 (Temporary Stay Decision issued September 5, 1979); *Santa Clara County Service Station Dealers Association,* Case No. DST–0070 (Temporary Stay Decision issued September 14, 1979); *North Tahoe-Truckee Gasoline Retailers,* Case Numbers DST–0072 and DES–0282 (Stay Decision issued September 14, 1979).

The *Alaska* case involved a request for stay relief filed by the Governor of the State of Alaska on behalf of every retailer of gasoline within the State. The data submitted by the State demonstrated that a significant number of gasoline retailers in Alaska are located in relatively small, isolated towns. The State also presented data which generally indicated that retailers in small Alaskan towns would not be able to realize a profit at a margin of 15.4 cents per gallon and would instead be required to sell gasoline at a loss. The Office of Hearings and Appeals found that, under these circumstances, it was possible that many retailers would curtail gasoline resale operations. In order to avoid the significant, irreversible, and irreparable injuries that the citizens of small Alaskan communities might experience if such a situation were to develop, the Office of Hearings and Appeals concluded that stay relief was appropriate. This relief was limited, however, to retailers operating in relatively small towns and possessing an average monthly base period allocation of 30,000 gallons or less. The firms which met these criteria were permitted to realize margins of 20.4 cents per gallon, pending a determination on an Application for Exception which the State indicated it intended to file.

The relief approved in the *Alaska* case was primarily based upon two factors: (i) the likelihood that small retailers in isolated areas of Alaska would be unable to realize a profit on the sale of gasoline at a margin of 15.4 cents per gallon; and (ii) the serious adverse impact which the cessation of operations by these service stations would have upon the citizens of small Alaskan communities. However, a retail outlet requesting relief does not necessarily need to demonstrate that it would be unable to operate at a profit at the fixed margin ceiling specified by the DOE regulations. For example, the relief approved in the *North Tahoe* case was not based upon a showing that the 20 retailers involved would operate at a loss at a margin of 15.4 cents. Instead, the Office of Hearings and Appeals found that a sufficient showing had been made in the stay proceeding that the costs of operating a service station in the Lake Tahoe area were in fact significantly higher than elsewhere in the United States. The record in the *North Tahoe* case indicated that labor rates, utility costs, snow removal charges, and costs attributable to product shrinkage in the Lake Tahoe area in all likelihood were higher than similar costs experienced by retailers elsewhere in the United States. The Office of Hearings and Appeals

concluded that, in view of these higher costs, it was quite likely that the retailers involved would ultimately prevail on the merits of their exception request. Stay relief of two cents per gallon was granted to most of the applicants pending the submission of further data in the exception proceeding.

In the *Southern California* and *Santa Clara County* Decisions, however, the applicants were unable to sustain the contention that service station operating costs in these regions were significantly higher than elsewhere in the United States. In the *Southern California* case, for example, the Office of Hearings and Appeals collected data which demonstrated that, contrary to the contentions advanced by the applicant, service station rental and labor costs in Southern California were not higher than elsewhere in the country. The Office of Hearings and Appeals also examined data prepared by the Bureau of Labor Statistics which indicated that the cost of living in representative California cities was not appreciably higher than in the United States as a whole. In contrast, this data indicated that the cost of living in Anchorage, Alaska was 41 percent higher than the nationwide average cost of living and the highest among these cities surveyed. Since the records in the *Southern California* and *Santa Clara County* cases also did not contain any evidence that retail outlets in these areas would be unable to operate profitably at margins of 15.4 cents, these stay requests were denied.

The Office of Hearings and Appeals has also considered a request for price relief filed by a jobber association. *Texas Oil Marketers Association*, Case No. BEL-0436 (Temporary Exception Decision issued December 18, 1979). The Texas Oil Marketers Association (TOMA) is a non-profit organization formed to represent the interest of branded and unbranded distributors of motor gasoline within the State of Texas. It is composed of more than 900 firms, the majority of which own, supply, and/or operate branded and unbranded service stations in Texas. In its Application for Exception, TOMA observed that resellers and reseller-retailers of motor gasoline had not been permitted to increase prices to reflect increased nonproduct costs since 1974. A survey of TOMA members indicated that nonproduct costs had risen approximately 2.77 cents per gallon sold since April of 1974. TOMA requested an exception and a temporary exception which would permit its members to recoup these costs.

At a hearing held on December 14, 1979, the Office of Hearings and Appeals held that a temporary exception should be granted to certain members of the class represented by TOMA. The record indicated that many members of TOMA were experiencing serious financial difficulties as a result of their inability to recover increased nonproduct costs. The Office of Hearings and Appeals also found that the TOMA request was supported by the impact which the denial of relief would have upon rural areas in Texas as well as upon the small and independent sector of the gasoline reselling industry in Texas. On the basis of these findings, the Office of Hearings and Appeals concluded that those members of the class that would sustain a serious and irreparable injury in the absence of relief should be permitted to raise their gasoline prices to reflect increased nonproduct costs actually incurred. Each member of the class that incurred a net loss in its most recently completed fiscal year was permitted to raise its price by two cents per gallon. Relief of one and one-half cents per gallon was granted to each member of the class whose net profit in its most recently completed fiscal year was (i) less than $25,000, and (ii) less than its net profit in its 1974 fiscal year.

Several restrictions were placed on the relief granted to certain members of TOMA. First, the relief must be cost-justified. Second, the relief does not apply to sales to other resellers or reseller-retailers. Third, the relief granted is to be reduced by the amount of any relief granted subsequently by any ERA amendment of the underlying regulations. The interim amendment to the regulations promulgated by ERA effective January 1, 1980, which approved a one-cent increase in the prices of some resellers, is an example of the type of relief which must be deducted from that given by the temporary exception.

VI. The District of Columbia Case

On January 2, 1980, the Office of Hearings and Appeals issued a Proposed Decision and Order with respect to an Application for Exception filed by the Government of the District of Columbia on July 18, 1979. *District of Columbia*, Case No. DEE-8329 (Proposed Decision issued January 2, 1980). An Interim Order was also issued on the same date making the proposed relief effective immediately, pending the issuance of a final Decision and Order with respect to the District's Application. The *District of Columbia* case discusses the standards which the Office of Hearings and Appeals will apply in considering exception requests filed by municipalities and communities seeking increased gasoline allocations for every retail service station within the area involved.

In the Proposed Decision issued to the District, the Office of Hearings and Appeals found that the extensive data it had collected in the exception proceeding demonstrated that the District was in fact disadvantaged by the operation of the DOE allocation regulations during June and July of 1979. For example, the record indicated that during June and July of 1979, the District received 88 and 83 percent of the volumes of gasoline which it received during June and July of 1978, respectively. In contrast, gasoline deliveries to the entire United States during these months amounted to 95 and 92 percent of 1978 deliveries. The record also indicated that during these months the District received relatively less gasoline than four out of five major cities and metropolitan areas for which the Office of Hearings and Appeals collected extensive supply data. The District also submitted data which demonstrated that the economy of the city of Washington was seriously affected by the gasoline supply shortage during these months. After reviewing the data submitted to it, the Office of Hearings and Appeals found that the significant reduction in the supply of gasoline to the District during June and July was not due solely to the nationwide reduction in gasoline supplies. Instead, the finding was made that the major suppliers of gasoline to the District had lower allocation and delivery fractions during these months than the major suppliers of gasoline to other areas of the country. The conclusion was also reached that the DOE allocation regulations restricted the ability of gasoline suppliers to shift product in order to meet regional supply shortages.

On the basis of the data presented to it, the Office of Hearings and Appeals tentatively concluded that the District would have qualified for exception relief on the grounds of gross inequity and unfair distribution of burdens during the months of June and July if the District had filed its exception request in a timely manner and if the data had been available to support the District's contentions. However, by the time data of this nature was collected, the need for an exception no longer existed. In its exception application, the District requested that the Office of Hearings and Appeals establish a "trigger mechanism" which would result in the immediate implementation of exception

relief as soon as data were submitted which demonstrated that the necessary criteria had been satisfied. The Office of Hearing and Appeals agreed that a trigger mechanism of this nature should be established. Under the provisions of the January 2 Proposed Order and the Interim Order, the District will receive additional gasoline supplies in any given month if the following criteria are satisfied:

(a)(i) anticipated gasoline delivery data indicates that the District will experience a reduction in gasoline supplies during the month in question which at at least 5 percent more than the national reduction in gasoline supplies, when compared with actual volumes delivered during the corresponding month of 1978: *or*

(ii) the weighted average allocation fraction of the suppliers to the District is at least 3 percent lower than the average allocation fraction for the entire United States for that month.

(b)(i) at least 50 percent of all retail outlets in the District sold gasoline for 5.5 hours per day or less during at least 75 percent of the days on which they were open that are included in a recent sample period of at least four days; *and*

(ii) at least 50 percent of all retail outlets in the District experienced a significant gasoline line at least once during 75 percent of the days included in a recent sample period of at least four days. For the purpose of this criterion, a significant gasoline line shall be defined as a gasoline line in which at least eight vehicles are awaiting service for each side of a service island that is open at the retail outlet in question.

The Proposed Decision contemplates that a Supplemental Order would be issued increasing the gasoline allocation of each retail outlet within the District by a minimum of five percent, if the District submits data during any month which indicates that these criteria have been satisfied. The January 2 Proposed Decision also provides that another comparable form of relief might be implemented. In order to qualify for relief, the District must demonstrate that it has made a concerted effort to alleviate gasoline supply shortages by distributing all set-aside volumes of gasoline available to it and taking other appropriate actions. In addition, the January 2 Proposed Decision provides that the Office of Hearings and Appeals may hold an Application filed by the District in abeyance until the eleventh day of the month if it finds that doing so would enable it to receive additional data which would substantially enhance its ability to evaluate the District's request.

The Office of Hearings and Appeals also indicated in the *District* case that a similar analytical framework would be applied to requests for similar relief filed by other cities and States. However, the relief extended to the District was based in part upon data which demonstrated the significant adverse economic impact of the gasoline shortage on the economy of the city of Washington during June and July of 1979. The Office of Hearings and Appeals held that the District would not have to make this showing again in another shortage situation. Another community requesting similar relief would have to make such a showing, in addition to meeting the remaining criteria set forth in the January 2 Proposed Decision. Moreover, another community would need to demonstrate that it could not obtain additional volumes of gasoline through the set-aside mechanism and that it had made a concerted effort to alleviate gasoline supply shortages through the means available to it.

VII. Administrative Procedures Applicable to Exception Filings

The procedural regulations that apply to exception proceedings are specified in detail in 10 CFR, Part 205, Subpart D. As a general matter, an exception application filed with the Office of Hearings and Appeals must meet the following basic procedural requirements:

(i) the application must be signed by an individual authorized to represent the firm involved;

(ii) the petition should be clearly labeled as an Application for Exception, and the envelope in which the petition is submitted should be similarly marked;

(iii) the application must indicate whether the firm considers any of the material it has submitted to be confidential (Section A below);

(iv) the applicant must certify that a copy of the application has been served upon potentially aggrieved parties (Section B below);

(v) the application should contain a full statement of relevant facts and should be supported by the data necessary for its evaluation by the Office of Hearings and Appeals; and

(vi) the application should be filed with the appropriate Regional Center or National Office (Section C below).

(A) Confidentiality

Under the provisions of Section 205.9(f) of the DOE procedural regulations, an applicant who requests that the DOE not disclose information which is considered to be confidential and exempt by law from public disclosure must file two additional copies of his application from which the allegedly confidential information has been deleted. The applicant should also specify in the original application that the document contains confidential information. In addition, the two additional copies of the application from which confidential information has been deleted should be clearly marked as public disclosure copies. If the applicant does not consider any of the information which he submits to be confidential, he should submit one extra copy of his application and state that the submission does not contain any confidential data. In either case, the Office of Hearings and Appeals will make available appropriate copies of the applicant's submission for public scrutiny in its Public Docket Room (B–120, 2000 M Street, N.W., Washington, D.C.) between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday.

(B) Notice Requirements

Under the provisions of § 205.53 of the DOE procedural regulations, a firm requesting exception relief from the DOE must serve a non-confidential copy of its Application upon each person who is reasonably ascertainable as a person who would be aggrieved by the approval of the requested exception relief. The copy of the application sent to aggrieved parties must be accompanied by a statement that any party may submit comments regarding the application to the appropriate Office within ten days. The applicant must also certify to the Office of Hearings and Appeals that these Notice requirements have been satisfied.

A retail outlet or a jobber requesting an exception from the motor gasoline allocation or price regulations should serve a copy of its application upon its base period supplier(s), while a retail outlet or a jobber requesting a change of supplier should serve a copy of its application upon the specific alternate supplier(s) to which it has requested assignment. A retail outlet requesting an increase in its base period gasoline allocation is also generally required to serve a copy of its application upon other retail outlets located in its immediate marketing area, since those firms might be adversely affected by the approval of the requested exception. Similarly, a jobber requesting an increased allocation which will benefit specific retail outlets is generally required to serve a copy of its application upon the retail outlets in the immediate marketing area of those specific outlets which would benefit from the approval of exception relief. It should be emphasized that these notice requirements are flexible and are not

necessarily intended to provide reasonable notice to all interested parties. The notice requirements in any given case depend upon the type and size of the exception request and the nature of the applicant's operations. For example, a small retail outlet in a major metropolitan area which is seeking a relatively minor increase in its monthly allocation would not be required to notifiy every retail outlet in its marketing area.

(C) Filing Locations

A retail outlet or a jobber requesting an increase in its base period allocation should file its application with the appropriate Regional Center of the Office of Hearings and Appeals. A retail outlet requesting an exception from the DOE price regulations applicable to the sale of motor gasoline should also file its application with the appropriate Regional Center. The addresses to which these applications should be sent are set forth below. All other applications should be directed to the National Office of Hearings and Appeals in Washington, D.C.

(i) Northeast Regional Center—Firms located in DOE Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), DOE Region II (New Jersey, New York, Puerto Rico, and the Virgin Islands), and DOE Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia) should file their applications at the following address: Northeast Regional Center, Office of Hearings and Appeals, Department of Energy, Region II, 26 Federal Plaza, New York, New York 10007.

(ii) Southeast Regional Center—Firms located in DOE Region IV (Alabama, Canal Zone, Florida, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina) should file their applications at the following address: Southeast Regional Center, Office of Hearings and Appeals, Department of Energy, Region IV, 1655 Peachtree Street NE, Atlanta, Georgia 30309.

(iii) Central Regional Center—Firms located in DOE Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin), and DOE region VII (Iowa, Kansas, Missouri, and Nebraska) should file their applications at the following address: Central Regional Center, Office of Hearings and Appeals, Department of Energy, Region V, 175 West Jackson Boulevard, Chicago, Illinois 60604.

(iv) Southwest Regional Center—Firms located in DOE Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas) should file their applications at the following address: Southwest Regional Center, Office of Hearings and Appeals, Department of Energy, Region VI, 2626 West Mockingbird Lane, P.O. Box 35228, Dallas, Texas 75235.

(v) Western Regional Center—Firms located in DOE Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming), DOE Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territory of the Pacific Islands) and DOE Region X (Alaska, Idaho, Oregon, and Washington) should file their applications at the following address: Western Regional Center, Office of Hearings and Appeals, Department of Energy, Region IX, 111 Pine Street, San Francisco, California 94111.

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

Issued in Washington, D.C., February 8th, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

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federal register

Thursday
February 14, 1980

Part VIII

Consumer Product Safety Commission

Bassett Furniture Industries, Inc. and Bassett Furniture Industries of North Carolina; Provisional Acceptance of Consent Agreement

CONSUMER PRODUCT SAFETY COMMISSION

Bassett Furniture Industries, Inc., and Bassett Furniture Industries of North Carolina; Provisional Acceptance Of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of Consent Agreement.

SUMMARY: The Commission by a 3–2 vote (Commissioners Zagoria and Statler dissenting as to the amount of the fine) has provisionally accepted a consent agreement containing an Order offered by Bassett Furniture Industries, Inc., and Bassett Furniture Industries of North Carolina, Inc. ("Bassett"). In the consent agreement Bassett promises (1) to undertake remedial action with respect to Bassett Candlelite crib models 5028–505, 2028–510, 5127–505, and 5127–510 ("Candlelite") and Bassett Mandalay crib models 5126–505, 5621–505, and 5225–505 ("Mandalay") and (2) to pay $175,000 in settlement of claims, with respect to Mandalay and Candlelite, arising under section 20 of the Consumer Product Safety Act, 15 U.S.C. 2069, and other related statutory provisions.

If finally accepted by the Commission, this consent agreement will settle allegations of the Commission staff that Bassett violated the provisions of the Consumer Product Safety Act.

The Commission invites comments on the consent order agreement set forth below.

DATES: The Commission believes that Bassett's remedial action program should begin as soon as possible in view of the seriousness and the nature of the risk posed by the Mandalay and Candlelite cribs. Commission regulations, 16 CFR 1115.20(b)(4), provide for a fifteen (15) day comment period. In the Commission's view, the need for prompt action in this case requires a lesser period of time for comment. Therefore, the Commission has decided to shorten the time for comment. Accordingly, written comments must be received in the Office of the Secretary, Consumer Product Safety Commission on or before February 21, 1980.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be viewed in or obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William Moore, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207 (Telephone: 301/492–6608).

Dated: February 12, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Consent Order Agreement

In the matter of Bassett Furniture Industries, Inc., a corporation, and Bassett Furniture Industries of North Carolina, Inc., a corporation.

This agreement is made by and between Bassett Furniture Industries, Inc., a corporation, Bassett Furniture Industries of North Carolina, Inc., a corporation (hereinafter, collectively Bassett or respondents) and the staff of the Consumer Product Safety Commission (staff).

On January 24, 1978 the Commission's Product Defect Correction Division (Division) notified Bassett of a preliminary determination by the Division that Bassett Candlelite cribs models, 5028–505, 2028–510, 5127–505 and 5127–510 (Candlelite) contain a defect which creates a substantial product hazard and requested that Bassett initiate a voluntary corrective action program which would include public notice, in cooperation with the Commission.

On May 3, 1978 the Division advised Bassett of a similar defect associated with Bassett's Mandalay cribs models 5126–505, 5621–505 and 5225–505 (Mandalay).

On September 26, 1979, the Commission staff advised Bassett that the staff had been authorized by the Commission to seek a civil penalty in the amount of $500,000 against Bassett for violation of the reporting requirements of 15 U.S.C. 2064(b)(2) with regard to the Candlelite crib.

Bassett implemented voluntary corrective action plans with regard to both style cribs; however, by November 1979 a large number of cribs remained unmodified. On November 8, 1979 the Division advised Bassett that additional corrective action, specifically greater public notice, was needed to locate unmodified cribs.

In accordance with 16 CFR 1115.20(b), Bassett and the staff of the Commission are willing to enter into this Consent Order Agreement which incorporates an Order to be issued by the Commission upon final acceptance of the Consent Order Agreement.

Therefore, respondents and the staff of the Commission agree:

I

1. The Consumer Product Safety Commission has jurisdiction over the subject matter of this Consent Order Agreement and the respondents. (15 U.S.C. 2051 *et seq.*)

2. The Commission Order in this matter is issued under sections 15(b), (c), (d), and (e), 19(a)(4), and 20(a), of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2064(c), (d), and 2068(a)(4), (e), and 2069(a).

3. The allegations of the Complaint which accompanies this Consent Order Agreement and is incorporated herein by reference (Complaint), shall be resolved as to the respondents and their officers, directors, agents, employees, successors, and assigns upon final acceptance by the Commission of this Consent Order Agreement and issuance of the Order attached hereto. Incorporation of the Complaint does not constitute an admission by Bassett of the truth of the allegations contained in the Complaint. The terms of the Order shall take effect upon issuance of the Order.

II

1. Respondent Bassett Furniture Industries, Inc. (Bassett) is a corporation organized and existing under the laws of the State of Virginia with its principal corporate offices on Main Street (Post Office Box 626), Bassett, Virginia 24055.

2. Respondent Bassett Furniture Industries of North Carolina, Inc. (Bassett, North Carolina) is a corporation organized and existing under the laws of the State of North Carolina with its principal corporate offices at Statesville, North Carolina.

3. Respondents manufactured and distributed in commerce, as those terms are defined in 15 U.S.C. 2052(a)(4), (8), (11) and (12) baby cribs known as Bassett baby cribs and designated Candlelite design, models 5028–505, 5028–510, 5127–505, and 5127–510 (Candlelite), and Mandalay design, models 5126–505, 5621–505 and 5525–505 (Mandalay), from February 1974 through October 1977.

4. The Candlelite cribs were manufactured, distributed in commerce and sold by Bassett from December 1975 through October 1977.

5. The Mandalay cribs were manufactured, distributed in commerce and sold by Bassett from February 1974 through October 1976.

6. Bassett cribs, designated Candlelite models 5028 and 5127, and Mandalay models 5126, 5621 and 5225 were produced and distributed in commerce

for sale to consumers for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise or for the personal use, consumption or enjoyment of consumers in and around permanent and temporary households and residences, a school, in recreation or otherwise, and are consumer products as that term is defined in 15 U.S.C. 2052(a).

7. The staff of the Commission has alleged, as more fully set forth in the Complaint, that both the Candlelite and Mandalay cribs present a "substantial product hazard" within the meaning of 15 U.S.C. 2064(a)(2).

8. The staff of the Commission has alleged, as more fully set forth in the Complaint, that respondents failed to inform the Commission immediately and adequately that they had obtained information which reasonably supported the conclusion that the Candlelite and Mandalay cribs contained a defect which could create a substantial product hazard, as required by 15 U.S.C. 2064(b)(2).

9. Respondents shall carry out the corrective action described in the Order below to be issued by the Commission.

III

1. The provisions of the Consent Order Agreement shall apply to the respondents and to each of their officers, directors, agents, employees, successors and assigns. They shall also apply to all persons, firms, associations, or corporations who act in concert with or participate as partner or joint venturer with the respondents and who receive actual notice of this Consent Order Agreement.

2. Respondents knowingly, voluntarily, and completely waive any rights they may have in this matter (1) to an administrative or judicial hearing and any other procedural steps, except as set forth in section IV, paragraph 10, below; (2) to seek judicial review or otherwise challenge or contest the validity of the Commission's Order; (3) to a determination by the Commission that the cribs present a substantial product hazard and that action under 15 U.S.C. 2064(c), (d), and (e), is in the public interest; and (4) to a statement of findings of fact and conclusions of law by the Commission. The Commission agrees to forego the issuance of findings of fact and conclusions of law with respect to the existence of a substantial product hazard or reporting violations in or concerning Candlelite and Mandalay cribs.

3. Upon execution of this Agreement by respondents and Commission staff and provisional acceptance by the Commission, this Agreement will be placed on the public record, on the Commission's Public Calendar, and in the **Federal Register** for a period of seven days and the Commission will then consider the Agreement pursuant to 16 CFR 1115.20(b)(5).

4. Upon final Commission acceptance the Commission will disclose the terms of this Consent Order Agreement to the public and will make the Consent Order Agreement available for public viewing at the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207.

5. The signing of this consent Order Agreement does not constitute an admission by the respondents that a reporting violation or a substantial product hazard or reportable information exists in this matter.

IV

Order

1. Respondents shall provide to owners, or those otherwise in possession of Candlelite and Mandalay cribs (cribs), free of charge, a modification kit for such cribs to eliminate the hazard identified in the Complaint which accompanies the consent Order Agreement in this matter. Respondents shall remit to the person)s) identifying a subject crib in need of modification a payment of $5.00 per crib in the manner described in section IV, paragraph 8 below.

2. Respondents shall reimburse persons (other than manufacturers, distributors, or retailers) referred to in section IV, paragraph 1 of this Agreement for any reasonable and foreseeable expenses incurred in availing themselves of the remedy. Reasonable and foreseeable expenses that shall be reimbursed include charges for installing the Candlelite modification kit.

3. Respondents shall give notice of the alleged hazard associated with the Candlelite and Mandalay cribs and the availability of the modification kits as specified in this paragraph and in section IV, paragraphs 4 through 8 below, and Attachments A through F.

4. Respondents shall provide at least one warning poster (Attachment A) and a letter (Attachment B) describing the hazard in the Candlelite and Mandalay cribs and the corrective action outlined herein, to all active practicing doctors of obstetric and/or gynecological medicine in the United States, as provided in the list compiled by National Business Lists, Inc. the letter shall advise the doctors that an unlimited number of bill stuffers (Attachment C) will be made available upon request for mailing to new or expectant parents under or recently under the doctor's care.

5. Respondents shall, as promptly as possible upon final Commission acceptance of this Agreement, cause advertisements (per Attachment D) to appear in black and white on one-half page of one issue each of *Family Circle* and *T.V. Guide* magazines.

6. Respondents shall, upon receipt of a list of addressees from the Commission, furnish at least one warning poster (Attachment A), along with an explanatory letter requesting conspicuous poster placement to all pediatric/maternity clinics not previously notified by Bassett. Or in the alternative, at staff discretion, respondents shall provide the Commission with a sufficient number of warning posters, up to 10,000 in number for Commission distribution to obstetric clinics and like institutions.

7. Respondents shall, as promptly as possible, after final Commission acceptance of this Agreement, cause direct mail hazard notices offering cash incentives (Attachment E and F), personally addressed in the name of the recipients, to be sent to as many households composed of parents of children from 0 through 21 months of age inclusive, as Market Development Corporation of St. Louis, Missouri, can identify.

8. Respondents shall, in implementing the cash incentive/crib modification kit program, give $5.00 to each person for each unmodified Candlelite or Mandalay crib identified to Bassett.

9. Respondents shall verify modification to the Commission by requesting the consumer either to (a) mail a postage prepaid verification card to Bassett stating that the crib has been modified, or (b) return to the original retailer of the crib, or any other authorized retailer of Bassett furniture, up to the four finials; and/or have the retailer install the modification kit for the Candlelite crib.

10. The staff of the Commission may, no earlier than eleven months following final Commission acceptance of the agreement, notify Bassett of its desire to cause direct mail to be sent to all households composed of parents of children born in the twelve months following the most recent birth on the list described in section IV, paragraph 8, above, such notice to be based upon a reasonable determination that the corrective action program to date has not been reasonably effective. In making such determination the staff shall consider the following factors:

(a) The percentage of cribs modified;

(b) Comparative experience from other recalls and product modifications

taking into consideration the degree of hazard;

(c) Probable success in securing additional modifications;

(d) Other steps Bassett has taken or program additions Bassett has implemented; and

(e) Analysis of the results of the program including an analysis of the effectiveness of the direct mail campaign, in view of its cost, compared to the effectiveness of other aspects of the program, in view of their relative costs. The staff shall notify Bassett of its findings with regard to each item. In the event that Bassett does not disagree with such determinations, it will promptly make satisfactory arrangements for the Commission to utilize such list for direct mail with costs of providing the list and the printing to be assumed by Bassett and all mailing costs to be assumed by the Commission. However, if Bassett does not agree with the staff determination, Bassett shall notify the staff of its disagreement no later than 30 days following receipt of such notice. In that event the staff shall initiate adjudicative proceedings pursuant to 5 U.S.C. 554 to determine whether the program described herein has been reasonably effective in accordance with the criteria described herein. The parties shall be able to exercise normal appeal rights.

11. Respondents shall respond promptly to all inquiries and responses received by them from whatever source, including the following:

(a) As a result of Bassett's program to contact all pediatricians throughout the United States by letter, poster and bill stuffer;

(b) As a result of Bassett's program to contact all hospital administrators throughout the United States by letter and/or poster;

(c) As a result of Bassett's public newspaper program;

(d) As a result of collect telephone tolls or telephone calls through its toll free number; and

(e) As a result of information disseminated by the Commission.

12. Bassett does not admit the existence of a substantial product hazard or a violation of any reporting requirements under 15 U.S.C. 2064. Bassett nevertheless will pay the amount of $175,000 upon the final acceptance of the Consent Order Agreement by the Commission, and the parties of this Agreement agree that such payment shall constitute a final settlement for all claims against Bassett and its officers, directors, agents, employees, successors, or assigns for all civil and criminal penalties and other claims arising under 15 U.S.C. 2069 or other related statutory provisions in any way applicable to the Mandalay and Candlelite cribs.

13. Respondents shall keep records (1) of the identity of persons to whom notices were sent, (2) of magazines in which advertisements were placed and of the advertisements themselves, (3) of the clinics and doctor's offices to which bill stuffers and/or warning posters were sent, (4) of the identity of the persons requesting modification kits, and/or a $5.00 finder's fee, (5) of the identity of the persons to whom modification kits and/or finders fees were sent, (6) of the identity of the persons to whom modification kits and/or finder's fees were denied and the reason(s) for denial, and (7) of such other actions taken by the respondents which shows compliance with this Order. All of the above records and/or extracts of information from them shall be provided to the Commission on request by the staff.

14. Respondents shall file reports with the Commission containing the information listed in section IV, paragraph 13 above and/or extracts from or summaries of that information. The format for filing reports may be determined subsequently by mutual agreement of the Commission staff and the respondents. The first report shall be filed 14 days after service of the Order on the respondents. Thereafter, reports shall be filed at 30 day intervals, the first interval commencing the day after the first report is filed. These reporting obligations shall continue until the requirements of this Order are completed and the Commission staff agrees the reports are no longer necessary. Respondents agree to permit the Commission to conduct inspections at the places of business of the respondents to ascertain compliance with this Order and may verify data contained in the reports.

15. Bassett will claim confidentiality for various documents provided to the Commission pursuant to paragraphs 13 and 14. The Commission shall follow its regulations as set forth in 16 CFR 1015 relating to any requested disclosure.

16. Respondents shall notify the Commission at least 30 days prior to any change in their business (such as incorporation, dissolution, assignment, sale, or declaration of bankruptcy) that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change which might affect compliance obligations arising out of this Order. This obligation will cease one year after service of the Order.

17. If mutually agreed by Bassett and the Commission staff, the provisions of this Agreement may be modified in writing as necessary to accommodate changing circumstances.

V

18. Respondents have read the Consent Order Agreement and the Complaint. They understand the terms contained therein and are aware that failure to comply with the Consent Order Agreement, issued under sections 15(c) and (d) of the CPSA, 15 U.S.C. 2064(c) and (d), is a prohibited act within the meaning of section 19(a)(5) of the CPSA, 15 U.S.C. 2068(a)(5), and may be punishable pursuant to sections 20 and 21 of the CPSA, 15 U.S.C. 2069 and 2070.

19. Any interested person may bring an action pursuant to section 24 of the CPSA, 15 U.S.C. 2073, to enforce this Consent Order Agreement and to obtain appropriate injunctive relief in any U.S. district court for the district in which one or both of the respondents is found or transacts business.

20. Any person who shall sustain injury by reason of any knowing violation of this Consent Order Agreement may sue any person who knowingly violated said Agreement in any district court of the United States in the district in which the defendant resides or is found or has an agent pursuant to section 23 of the CPSA, 15 U.S.C. 2072.

21. Upon execution of this Agreement by the respondents and Commission staff and provisional acceptance by the Commission this Agreement will be placed on the public record, on the Commission's Public Calendar, and in the **Federal Register** for a period of seven (7) days and the Commission will then consider the Agreement pursuant to 16 CFR 1115.20(b)(5).

22. No other agreement, understanding, representation, or interpretation not contained in this Consent Order Agreement may be used to vary or to contradict its terms.

23. Each provision of this Consent Order Agreement is separable. In the event of litigation involving compliance with the terms of the Order the issues will be restricted to those raised by interested parties; the resolution of those issues will affect only the pertinent parts of the Order; the Consent Order Agreement and Complaint accompanying said agreement may be used to interpret the terms of the Order; and the parties will be obligated by the judicially contrued parts of the Consent Order Agreement as if they were part of the original Consent Order Agreement.

By direction of the Commission, the Consent Order Agreement is provisionally accepted pursuant to 16 CFR 1115.20(b)(3) and (4), shall be placed on the public record and the Commission shall announce provisional acceptance of the Consent Order Agreement in the Commission's public calendar and in the **Federal Register**. So Ordered, by direction of the Commission, this 7th day of February, 1980.

Sadye E. Dunn,

Secretary Consumer Product Safety Commission.

Dated:

Read and Consent To:

For Bassett Furniture Industries, Inc.

Date: February 7, 1980.

Robert H. Spilman,

President.

For Bassett Furniture Industries of North Carolina, Inc.

Date: February 7, 1980.

Robert H. Spilman,

President.

Consumer Product Safety Commission.

Date: February 7, 1980.

David Schmeltzer,

Associate Executive Director for Compliance and Enforcement.

By direction of the Commission, the Consent Order Agreement is accepted and the Commission agrees to the terms thereof, in disposition of the charges alleged by the staff in the Complaint attached to the Consent Order Agreement, and the Order is issued as an Order of the Consumer Product Safety Commission pursuant to sections 15(c), (d), and (e), and 20(a) of the Consumer Product Safety Act, 15 U.S.C. 2064(c), (d), and (e), and 2069(a). So Ordered, by direction of the Commission, this —— day of ———, 19—.

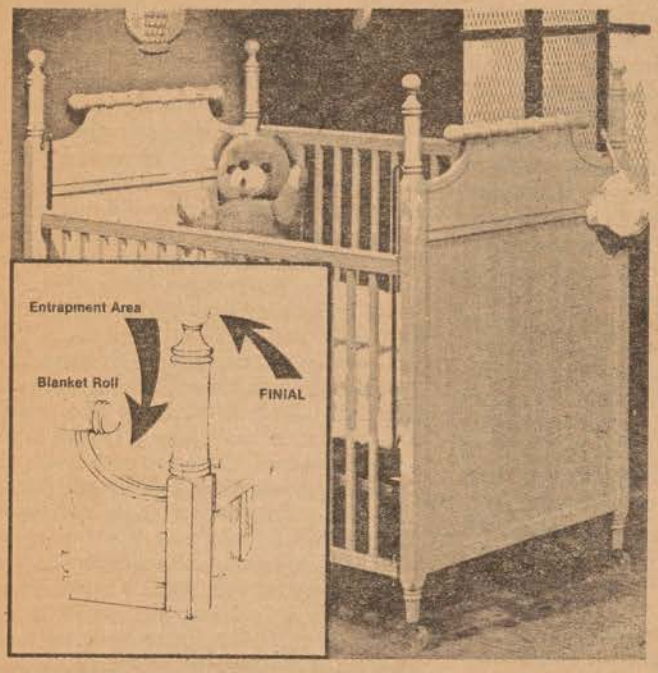
Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

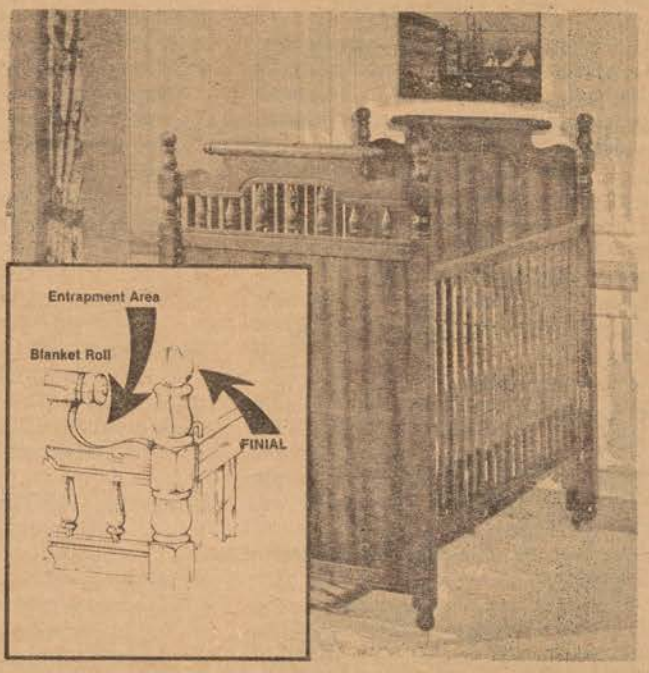
BILLING CODE 6355-01-M

ATTACHMENT "A"

WARNING



BASSETT "MANDALAY"
5126 or 5621 (Yellow)
or 5225 (White)



BASSETT "CANDLELITE"
5127 (Pine) or 5028 (Maple)

THE BASSETT CRIBS PICTURED ABOVE MAY POSE A POTENTIAL HAZARD FOR NECK ENTRAPMENT AND STRANGULATION TO INFANTS OLD ENOUGH TO STAND IN THE CRIB AND PLACE THEIR NECKS INTO THE OPENINGS BETWEEN THE FINIALS AND THE BLANKET ROLL. *EXTREME CAUTION* SHOULD BE EXERCISED IN THE USE OF THESE CRIBS UNTIL PROPERLY MODIFIED.

IF YOU HAVE ONE OF THE CRIBS PICTURED ABOVE, YOU ARE URGED TO *IMMEDIATELY* UNSCREW AND REMOVE ALL FOUR FINIALS (THE TOP PART OF THE CORNER POSTS THAT UNSCREW).

THEN CALL 703-629-7511 Ext. 340 *COLLECT* TO REPORT THE LOCATION OF THE CRIB. A MODIFICATION WILL BE SENT TO YOU.

703-629-7511 Ext. 340

ATTACHMENT "B"

URGENT: PLEASE READ

TO: ALL OB-GYN PRACTIONERS

SUBJECT: BASSETT "CANDELITE" AND "MANDALAY" CRIBS

DOCTOR:

FOR SOME TIME NOW, WE HAVE BEEN TRYING TO LOCATE THE SUBJECT CRIBS THROUGH THE RECORDS OF ALL OUR ACTIVE RETAIL (JUVENILE) ACCOUNTS, (AS WELL AS PRESS RELEASES, POSTERS, AND PHONE CALLS). WE'VE RUN OUT OF RECORDS AND WE STILL HAVE ABOUT 300 CANDELITE AND 5000 MANDALAY CRIBS TO LOCATE AND MODIFY.

WOULD YOU PLEASE PLACE THIS POSTER IN A CONSPICUOUS LOCATION IN YOUR OFFICE WHERE YOUR PATIENTS ARE ABLE TO READ IT. OUR HOPE IS THAT THE OWNERS OF THE CRIBS (OR THEIR FRIENDS OR NEIGHBORS) WILL SEE IT AND WE WILL BE ABLE TO LOCATE AND MODIFY ALL THE REST.

UPON THE RECOMMENDATION OF PEDIATRICIAN, DR. NORMAN LATONA OF BIRMINGHAM, ALA., WHO HAD ALREADY RECEIVED THE WARNING POSTER, WE HAVE PRINTED DUPLICATE PORTIONS OF THE POSTER FOR USE AS A STUFFER FOR DOCTORS' MONTHLY BILLS. IF YOU WOULD LIKE FOR US TO SEND YOU THE STUFFERS FOR USE IN BILLING STATEMENTS PLEASE ADVISE US OF THE NUMBER YOU WILL NEED TO APPRISE YOUR PATIENTS OF THE HAZARD.

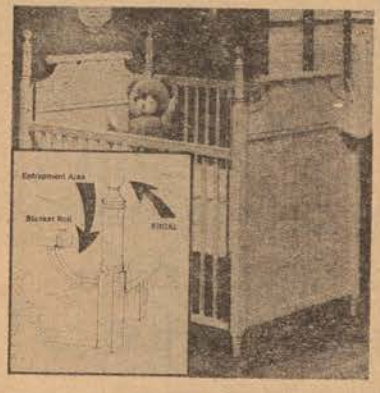
IF YOU HAVE ANY INQUIRY ABOUT THE CRIBS FROM ANYONE, PLEASE CALL, IN VIRGINIA, 703/629-7511, EXT. 340, COLLECT, OR, OUTSIDE VIRGINIA, TOLL FREE 1-800/336-5223 WITHOUT DELAY. THANK YOU VERY MUCH FOR YOUR HELP.

ATTACHMENT "C"

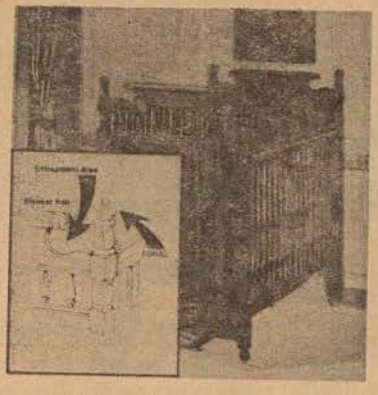
WARNING

REMOVE THESE FINIALS AND NOTIFY BASSETT

FRONT



BASSETT "MANDALAY"
5126 or 5621 (Yellow)
or 5225 (White)



BASSETT "CANDLELITE"
5127 (Pine) or 5028 (Maple)

BACK

THE BASSETT CRIBS PICTURED MAY POSE A POTENTIAL HAZARD FOR NECK ENTRAPMENT AND STRANGULATION TO INFANTS OLD ENOUGH TO STAND IN THE CRIB AND PLACE THEIR NECKS INTO THE OPENINGS BETWEEN THE FINIALS AND THE BLANKET ROLL. *EXTREME CAUTION* SHOULD BE EXERCISED IN THE USE OF THESE CRIBS UNTIL PROPERLY MODIFIED.

IF YOU HAVE ONE OF THE CRIBS PICTURED YOU ARE URGED TO *IMMEDIATELY* UNSCREW AND REMOVE ALL FOUR FINIALS (THE TOP PART OF THE CORNER POSTS THAT UNSCREW).

THEN CALL 703-629-7511 EXT. 340 *COLLECT* TO REPORT THE LOCATION OF THE CRIB OR SEND THE INFORMATION BELOW. A MODIFICATION WILL BE SENT TO YOU.

BASSETT FURNITURE IND., Dept. 340, P.O. Box 626
Bassett, Virginia 24055 — (703) 629-7511, Ext. 340

Name _____

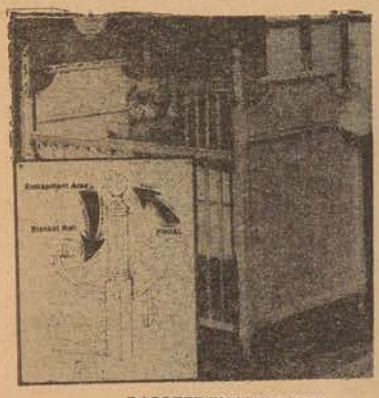
Address _____

_____ ***Phone No.: A/C*** _____

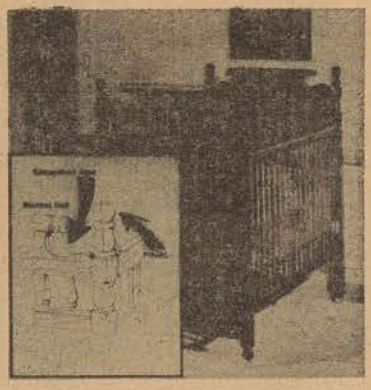
I have: _____ ***Mandalay*** _____ ***Candlelite***

ATTACHMENT "D"

Remove these finials and notify Bassett
$5.00 CASH
FOR FINDING THESE CRIBS



BASSETT "MANDALAY"
5126 or 5621 (Yellow)
or 5225 (White)



BASSETT "CANDLELITE"
5127 (Pine) or 5028 (Maple)

THE BASSET CRIBS PICTURED MAY POSE A POTENTIAL HAZARD FOR NECK ENTRAPMENT AND STRANGULATION TO INFANTS OLD ENOUGH TO STAND IN THE CRIB. INFANTS MAY PLACE THEIR NECKS INTO THE OPENINGS BETWEEN THE FINIALS AND THE BLANKET ROLL. THE U.S. CONSUMER PRODUCT SAFETY COMMISSION HAS RECEIVED REPORTS OF SIX DEATHS ALLEGEDLY ASSOCIATED WITH THESE CRIBS. THESE CRIBS SHOULD NOT BE USED UNTIL PROPERLY MODIFIED.

IMMEDIATELY UNSCREW AND REMOVE ALL FOUR FINIALS (THE TOP PART OF THE CORNER POSTS THAT UNSCREW).

THEN CALL, IN VIRGINIA, 703/629-7511 EXT. 340 COLLECT, OR OUTSIDE VIRGINIA, TOLL FREE 1-800/336-5223 TO REPORT THE LOCATION OF THE CRIB OR SEND THE INFORMATION BELOW. A MODIFICATION KIT WILL BE SENT TO YOU AND IN ADDITION $5.00 WILL BE SENT TO YOU UPON VERIFICATION.

NO OTHER BASSET CRIBS ARE INVOLVED IN THIS RECALL

BASSETT FURNITURE IND., Dept. 340, P.O. Box 626
Bassett, Virginia 24055 — (703) 629-7511, Ext. 340

Name _____

Address _____

_____ Phone No.: A/C _____

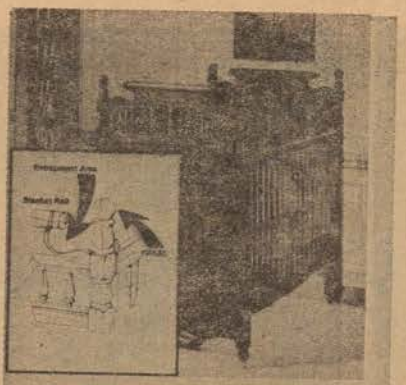
I have _____ Mandalay _____ Candlelite

WARNING
REMOVE THESE FINIALS AND NOTIFY BASSETT

$5.00 CASH FOR FINDING THESE CRIBS



BASSETT "MANDALAY"
5126 or 5621 (Yellow)
or 5225 (White)



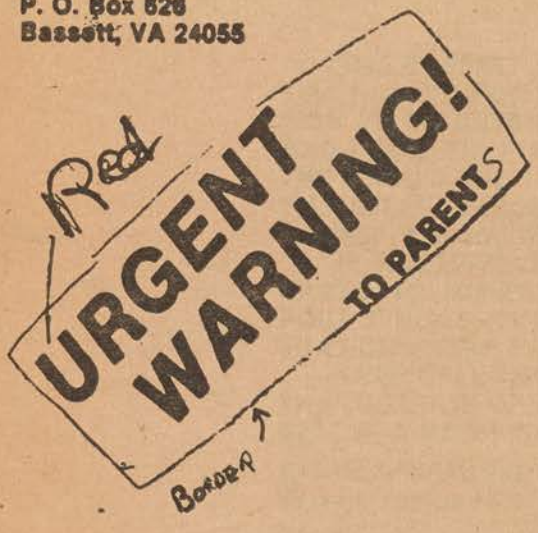
BASSETT "CANDLELITE"
5127 (Pine) or 5028 (Maple)

BASSETT FURNITURE IND., INC.
P. O. Box 626
Bassett, VA 24055

U.S. Consumer Product Safety Commission

Infant Safety Notice Inside

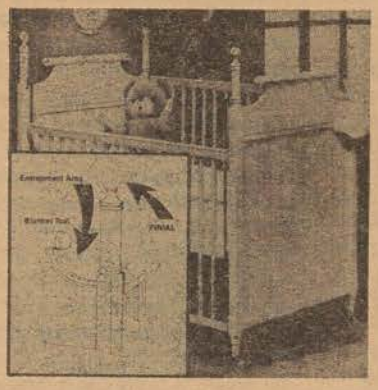
BULK RATE
U. S. POSTAGE
PAID
Permit No. 58
BASSETT, VA. 24



ATTACHMENT "E"

ATTACHMENT "F"

WARNING
Remove these finials and notify Bassett
$5.00 CASH
FOR FINDING THESE CRIBS





If you own or know anyone who has one of these cribs, modify it IMMEDIATELY and notify Bassett.

The Bassett cribs pictured may pose a potential hazard for neck entrapment and strangulation to infants old enough to stand in the crib. Infants may place their necks into the openings between the finials and the blanket roll. The U.S. Consumer Product Safety Commission has received reports of six deaths allegedly associated with these cribs. These cribs should not be used until properly modified.

Immediately unscrew and remove all four finials (the top part of the corner posts that unscrew).

Then call, in Virginia, 703/629-7511 Ext. 340 collect or, outside Virginia, toll free 1-800/336-5223 to report the location of the crib or send the information below. A modification kit will be sent to you and in addition $5.00 will be sent to you upon verification.

NO OTHER BASSETT CRIBS ARE INVOLVED IN THE RECALL.

BASSETT FURNITURE IND., Dept. 340, P.O. Box 626
Bassett, Virginia 24055 — (703) 629-7511, Ext. 340
Name _____
Address _____
_____ Phone No.: A/C _____
I have: _____ Mandalay _____ Candlelite

United States of America, Consumer Product Safety Commission

Complaint

Jurisdiction

In the matter of Bassett Furniture Industries, Inc., a corportion, and Bassett Furniture Industries of North Carolina, Inc., a corporation.

1. This proceeding is instituted pursuant to the authority contained in sections 15(b), (c), (d), (e) and (f); 19(a)(4); 20(a); of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2064(b), (c), (d), (e), and (f); 2068(a)(4); and 2069(a).

Parties

2. Respondent Bassett Furniture Industries, Inc. (Bassett) is a corporation organized and existing under the laws of the State of Virginia with its principal corporate offices on main Street (Post Office Box 626), Bassett, Virginia 24055.

3. Respondent Bassett Furniture Industries of North Carolina, Inc. (Bassett, North Carolina) is a corporate organized and existing under the laws of the State of North Carolina with its principal corporate office at Statesville, North Carolina.

4. Hereinafter Bassett and Bassett, North Carolina shall be known, when collectively referred to, as respondents.

5. Whenever this Complaint refers to any act of one, or both of the respondents, the reference shall be deemed to mean that the act was authorized by respondents or by directors, officers, employees, or agents or respondents and that at the time of the authorization these persons were actively engaged in the management, direction, control, or central management, direction, or control of the affairs of respondents and were acting within the scope of their employment.

The Consumer Product

6. Respondents manufactured, and distributed in commerce, as those terms are defined in 15 U.S.C. 2052(a)(4), (8), (11) and (12) in the United States, baby cribs known as Bassett baby cribs and designated Candelite design, models 5028–505, 5028–510, 5127–505, and 5127–510 (Candlelite), and Mandalay design, models 5126–505, 5621–505 and 5225–505 (Mandalay) from February, 1974 through October 1977.

7. The Candlelite cribs were manufactured by Bassett, North Carolina and were designed, distributed in commerce and sold by Bassett from December 1975 through October 1977.

8. The Mandalay cribs were manufactureed by Bassett, North Carolina, and were designed, distributed in commerce and sold by Bassett from February 1974 through October 1976.

9. Bassett cribs, designated Candlelite models 5028 and 5127 and Mandalay models 5126, 5621 and 5225 were produced and distributed in commerce for sale to consumers and for the personal use, consumption and enjoyment of consumers in and around permanent and temporary households and residences, in recreation or otherwise, and are consumer products as that term is defined in 15 U.S.C. 2052(a)(1).

10. The Candlelite cribs are of a traditional colonial style. Model 5028–505 (regular shaped slats) and 5028–510 (spindle slats) are stained in maple. Model 5127–505 (regular shaped slats) and 5127–510 (spindle slats) are stained in pine. All four Candlelite models are, except for the stain and slat variations noted, identical in design. The approximately retail cost of the Candlelite crib is $100.

11. The Mandalay cribs are of a bamboo-like motif. Model 5126–505 and 5621–505 are painted yellow; model 5621–505 was manufactured for the J. C. Penney Department Store. Model 5225–505 is painted white. All three Mandalay models are, except for the paint variations noted, identical in design. The approximate retail cost of the Mandalay crib is from $100 to $125.

12. Approximately 1,654 Candlelite cribs were manufactured and distributed by respondents, and approximately 400 unmodified Candlelite cribs remain in the possession of consumers.

13. Approximately 5,800 Mandalay cribs were manufactured and distributed by respondents, and approximately 4,700 unmodified Mandalay cribs remain in the possession of consumers.

14. The useful life of each crib is estimated to be up to two generations, or more depending upon care and use over the years.

Count I

The Substantial Product Hazard, Mandalay Cribs

15. Paragraphs 1 through 14 are realleged.

16. Each Mandalay crib utilizes an identically designed headboard and footboard (headboard) with cut out designs at the top of each corner which create an opening between the top horizontal robe rail (parallel to the ground) and the finial (bedpost) of the headboard. (See Attachment 1.)

17. This headboard design creates an opening, at each of the four corners of the crib, of a width and depth which permits an infant to place the neck into the opening but which may prevent the infant from extricating himself by pulling the head back through the same opening; the head (and therefore the neck) may become entrapped; the entrapment can cause the infant to rest its weight on its neck and thereby restrict its airflow; this in turn can cause strangulation injuries or death.

18. The Mandalay cribs contain a defect which because of the pattern of the defect, the seriousness of the injuries that can occur, and the population exposed to the risk of injury, infants, creates a substantial risk of injury. 15 U.S.C. 2064(a)(2) (c), and (d).

19. The Mandalay cribs present a "substantial product hazard" to the public within the meaning of 15 U.S.C. 2064(a)(2).

20. Respondents have, since May, 1978, undertaken some corrective action intended to notify the public of the hazard and have designed crib modification kits to eliminate the hazard. As of January 31, 1980 approximately 4,700 Mandalay cribs have not been modified.

Count II

The Substantial Product Hazard, Candlelite Cribs

21. Paragraphs 1 through 14 are realleged.

22. Each Candlelite crib utilizes an identically designed headboard and footboard (headboard) with cut out designs at the top of each corner which create an opening between the top horizontal robe rail (parallel to the ground) and the finial (bedpost) of the headboard. (See Attachment 2.)

23. This headboard design creates an opening, at each of the four corners of the crib, of a width and depth which permits an infant to place the neck into the opening but which may prevent the infant from extricating himself by pulling the head back through the same opening; the head (and therefore the neck) may become entrapped; the entrapment can cause the infant to rest its weight on its neck and thereby restrict its airflow; this in turn can cause strangulation injuries or death.

24. The Candlelite cribs contain a defect which because of the pattern of the defect, the seriousness of the injuries that can occur, and the population exposed to the risk of injury, infants, creates a substantial risk of injury. 15 U.S.C. 2064(a)(2), (c), and (d).

25. The Candlelite cribs present a "substantial product hazard" to the public within the meaning of 15 U.S.C. 2064(a)(2).

26. Respondents have, since October, 1977, undertaken some corrective action intended to notify the public of the hazard and have designed crib modification kits to eliminate the hazard. As of January 31, 1980 approximately 400 Candlelite cribs have not been modified.

Count III

Failure to Report, Mandalay

27. Paragraphs 1 through 14 are realleged.

28. Respondents, at the time of the manufacture and distribution of the Mandalay cribs, were subject to the requirements for notification of defect pursuant to 15 U.S.C. 2064(b) and 2079(d), and the Commission's regulations for substantial product hazard notifications then in effect, 16 CFR 1115.1(b), now 1115.2(d).

29. Respondents knew or should have known in March 1978 and thereafter that the defect in the Mandalay crib could create a substantial risk of injury to the public in that it could cause death or serious bodily injury due to strangulation. The Commission was not adequately informed pursuant to 15 U.S.C. 2064(b)(2) concerning such defect until May 3, 1978.

30. The failure to immediately and adequately inform the Commission that respondents had obtained information which reasonably supported the conclusion that the Mandalay crib contained a defect which could create a substantial product hazard is a prohibited act pursuant to 15 U.S.C. 2068(a)(4).

31. Any person who knowingly violates 15 U.S.C. 2068 shall be subject to a civil penalty not to exceed $2,000 for each violation, and a violation of 15 U.S.C. 2068(a)(4) shall constitute a separate offense with respect to each consumer product involved, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations. (15 U.S.C. 2069)

Count IV

Failure To Report, Candlelite

32. Paragraphs 1 through 14 are realleged.

33. Respondents, at the time of the manufacture and distribution of the Candlelite cribs, were subject to the requirements for notification of defect pursuant to 15 U.S.C. 2064(b) and 2079(d), and the Commission's regulations for substantial product hazard notifications then in effect, 16 CFR 1115.1(b), now 1115.2(d).

34. Respondents knew or should have known in late September 1977 and thereafter that the defect in the Candlelite crib could cause a substantial risk of injury to the public in that it could cause death or serious bodily injury due to strangulation. The Commission was not adequately informed pursuant to 15 U.S.C. 2064(b)(2) concerning such defect until January 25, 1978.

35. The failure to immediately and adequately inform the Commission that respondents had obtained information which reasonably supported the conclusion that the Candlelite crib contained a defect which could create a substantial product hazard is a prohibited act pursuant to 15 U.S.C. 2068(a)(4).

36. Any person who knowingly violates 15 U.S.C. 2068 shall be subject to a civil penalty not to exceed $2,000 for each violation, and a violation of 15 U.S.C. 2068(a)(4) shall constitute a separate offense with respect to each consumer product involved except that the maximum civil penalty shall not exceed $500,000 for any related series of violations. (15 U.S.C. 2069)

Relief Sought

Wherefore the staff of the Consumer Product Safety Commission asks that the Commission:

1. Determine that the subject Mandalay and Candlelite cribs were distributed in commerce and present a "substantial product hazard" and that notification under 15 U.S.C. 2064(c) is required to adequately protect the public, and order respondents to provide public notice, adequate to apprise the consumer who is an actual or potential owner of the subject cribs, of the defects and hazard associated with the Mandalay and Candlelite cribs. Each notice should be of a form and content approved by the staff of the Commission prior to its issuance.

2. Determine that, as to such Mandalay and Candlelite cribs, action under 15 U.S.C. 2064(d) is in the public interest and order respondents to elect to repair the defects, to replace the product with another like or equivalent product which does not contain the defect, or to refund the purchase price of the product.

3. Order respondents to continue to respond promptly to all inquiries and responses received by them from whatever source concerning the Mandalay and Candlelite cribs.

4. Order respondents to keep records showing compliance with each provision of any Order issued by the Commission including, but not limited to records showing (1) the specific methods of public notice employed; (2) the identity of persons requesting and receiving repair, replacement or refund; and (3) the identity of persons to whom repair, replacement or refund was denied and the reason(s) for denial.

5. Order respondents to provide all of the records in paragraph 4 above and/or extracts of information to the Commission upon request.

6. Order respondents to file reports with the Commission containing information specified in paragraph 4 above and other information that may be requested to determine compliance with an Order issued in this proceeding at 30 day intervals until the actions required in paragraphs 1 and 2 above are completed and the Commission agrees that reports are no longer necessary.

7. Order respondents to permit Commission inspections at respondent's places of business to verify data in reports submitted and ascertain compliance with the Order or Orders issued in this proceeding.

8. Order respondents to notify the Commission at least 30 days prior to any change in their business (such as incorporation, dissolution, assignment, sale, or declaration of bankruptcy) that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change that might affect compliance obligations under a Commission Order for a period of one year after issuance of the Order.

9. Assess a civil penalty not to exceed $500,000 pursuant to sections 19(a)(4) and 20(a) of the CPSA, 15 U.S.C. 2068(a)(4) and 2069(a), against respondents for failure to inform the Commission of the defect in the Candlelite cribs as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

10. Assess a civil penalty not to exceed $500,000 pursuant to sections 19(a)(4) and 20(a) of the CPSA, 15 U.S.C. 2068(a)(4) and 2069(a), against respondent for failure to inform the Commission of the defect in the Mandalay cribs as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

11. Grant such other and further relief as the Commission deems necessary to protect the public health and safety and to implement the CPSA.

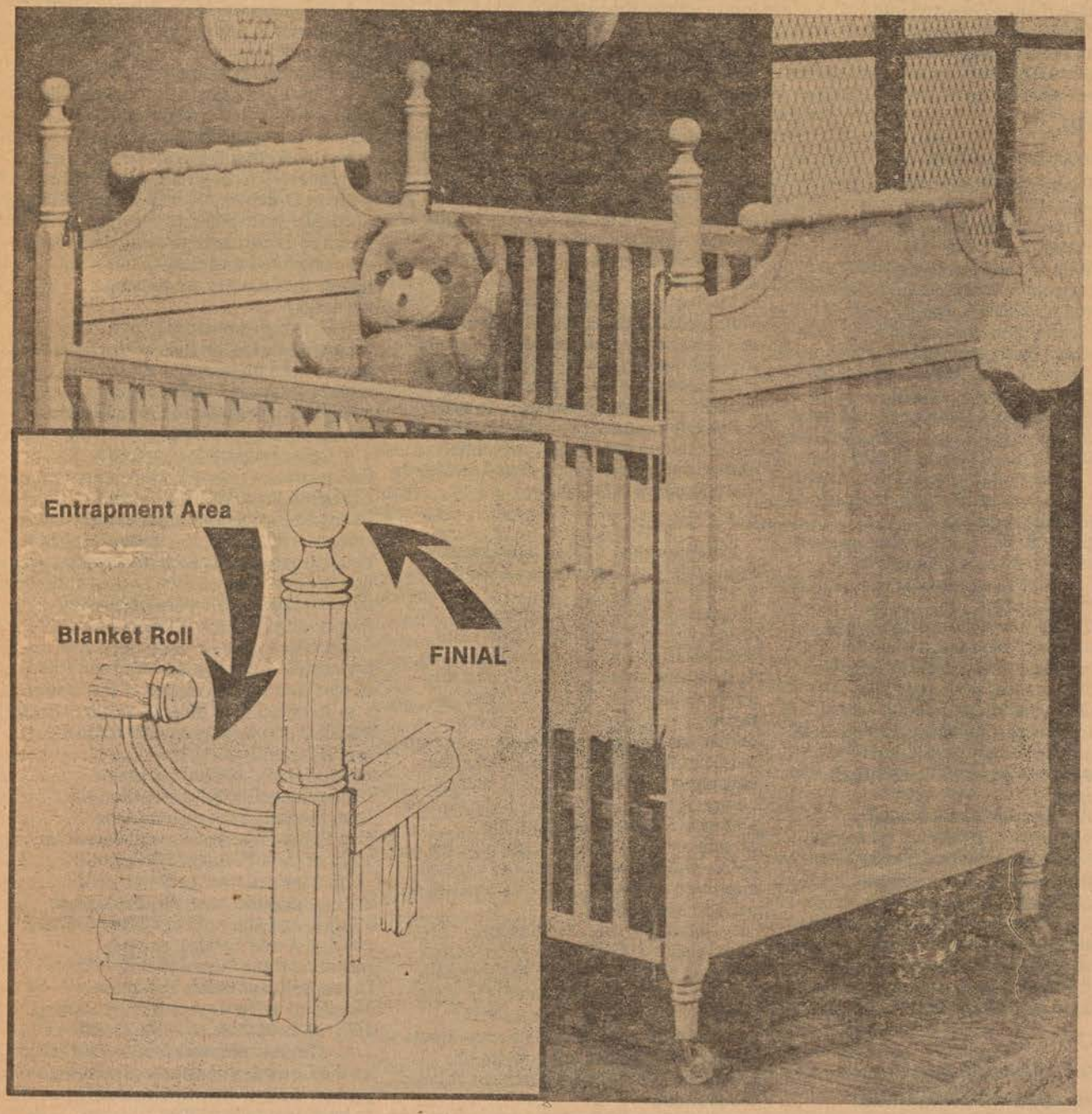
Issued by order of the Commission.

Sadye Dunn,

Secretary, Consumer Product Safety Commission.

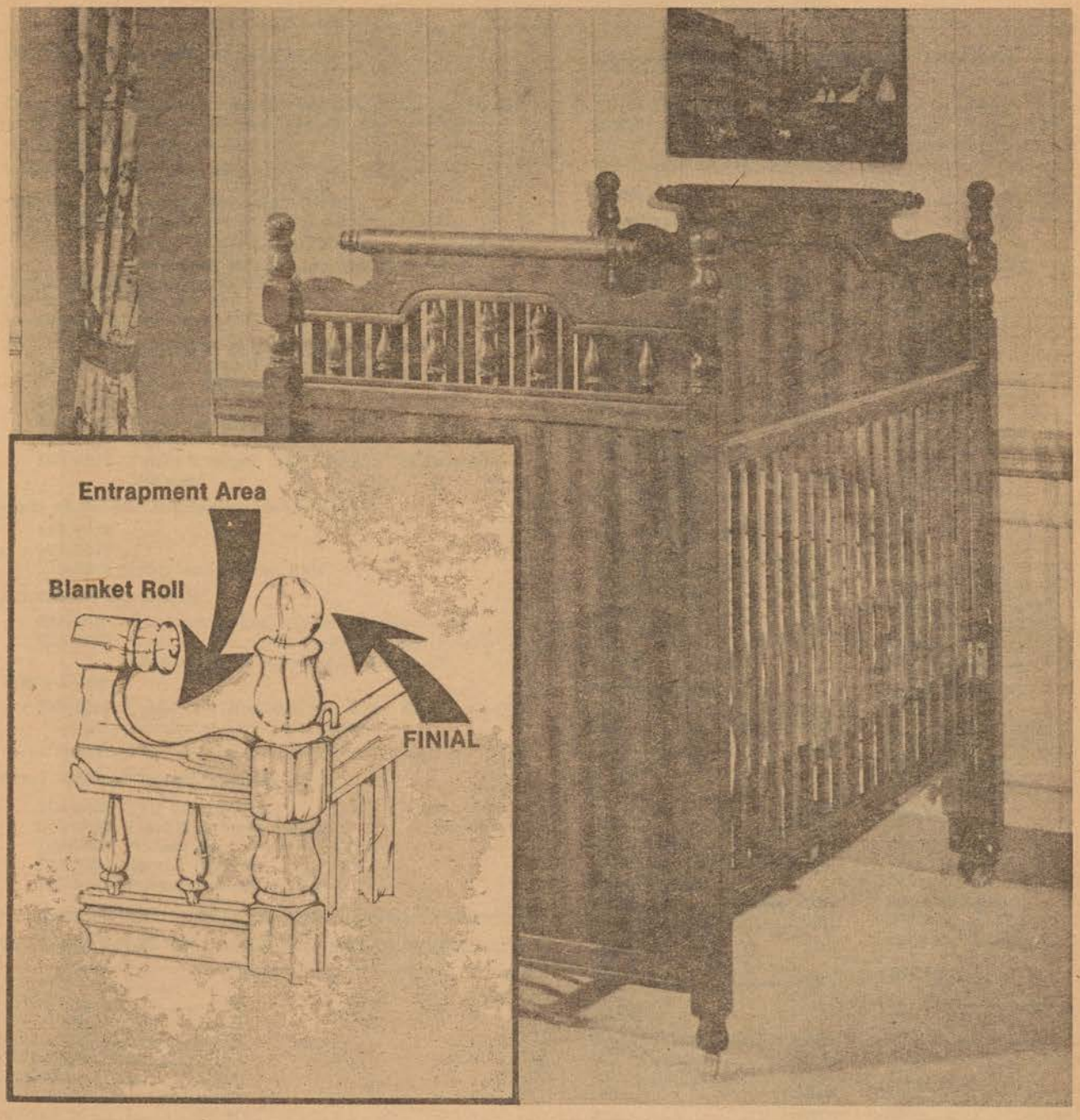
BILLING CODE 6355-01-M

Attachment 1



BASSETT "MANDALAY"
5126 or 5621 (Yellow)
or 5225 (White)

Attachment 2



BASSETT "CANDLELITE" 5127 (Pine) or 5028 (Maple)

[FR Doc. 80-4933 Filed 2-13-80; 8:45 am]
BILLING CODE 6355-01-C

Reader Aids

Federal Register

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Thursday, February 14, 1980

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/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

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

INTERSTATE COMMERCE COMMISSION

74836 12–18–79 / Passenger broker entry control

Listing of Public Laws

Last Listing February 13, 1980

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S.423 / Pub. L. 96–190 "Dispute Resolution Act". (Feb. 12, 1980; 94 Stat. 17) Price $1.00.