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| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
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| DOT/NHTSA | USDA/FNS | | DOT/NHTSA | USDA/FNS |
| DOT/FAA | USDA/REA | | DOT/FAA | USDA/REA |
| | CSC | | | CSC |
| | LABOR | | | LABOR |

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

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### List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 2498..... Pub. Law 94–305
An act to amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes
(June 4, 1976; 90 Stat. 663)

H.R. 8719..... Pub. Law 94–306
An act to provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority
(June 4, 1976; 90 Stat. 672)

H.R. 9630..... Pub. Law 94–309
Educational Broadcasting Facilities and Telecommunications Demonstration Act of 1976
(June 5, 1976; 90 Stat. 683)

H.R. 12132..... Pub. Law 94–308
An act to extend as an emergency measure for one year the District of Columbia Medical and Dental Manpower Act of 1970
(June 4, 1976; 90 Stat. 682)

H.R. 12453..... Pub. Law 94–307
National Aeronautics and Space Administration Authorization Act, 1977
(June 4, 1976; 90 Stat. 677)

# rules and regulations

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.

## Title 11—Federal Elections

### NONPUBLICATION OF JANUARY 1, 1976 CODE OF FEDERAL REGULATIONS VOLUME

EDITORIAL NOTE: Under normal publication schedules Title 11 of the Code of Federal Regulations would be revised annually as of January 1. However, as of January 1, 1976, no codified regulations had been promulgated for Title 11.

The only Federal agency authorized to issue regulations in Title 11 is the Federal Elections Commission (FEC). The newly-reconstituted Commission is in the process of proposing regulations. If the quantity of regulatory material adopted by FEC warrants publication of a CFR volume before the next normal revision date (January 1, 1977), the Office of the Federal Register will issue a special CFR edition.

In that event, the Office of the Federal Register will make an appropriate announcement in the FEDERAL REGISTER.

## Title 13—Business Credit and Assistance

### CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

### PART 301—DESCRIPTION OF ORGANIZATION

### PART 307—TECHNICAL ASSISTANCE, RESEARCH AND INFORMATION

### Economic Development Administration Regional Offices

Pursuant to the authority vested in it by section 701 of the Public Works and Economic Development Act of 1965, as amended, the Economic Development Administration hereby amends Part 307, Subpart D and Part 301, Subpart C of 13 CFR Chapter III, by amending §§ 307.52(a)(1) and 301.31(e).

The purpose of the above amendment is to include the new Commonwealth of the Northern Mariana Islands as eligible for assistance under the Public Works and Economic Development Act of 1965, as amended. By making the Northern Mariana Islands eligible for assistance EDA will be complying with Pub. L. 94-241 (March 24, 1976) which made available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States.

In that the material contained herein is a matter relating to the EDA grant and loan program and because immediate corrective action is necessary, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of the proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments or suggestions regarding 13 CFR 307.52(a)(1) and 301.31(e) to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230 by July 12, 1976. All suggestions will be considered in revising or amending these regulations.

1. 13 CFR Part 307 is amended by revising § 307.52(a)(1) to read as follows:

**§ 307.52 Eligible applicants.**

(a) Eligible applicants under § 302(a) of the Act are:

(1) The Governor of a State or an agency designated by him, and the Chief Executive Officer of the District of Columbia, Puerto Rico, Virgin Islands, Guam, American Samoa, and Northern Mariana Islands.

* * * * *

2. 13 CFR Part 301 is amended by revising § 301.31(e) to read as follows:

**§ 301.31 Economic Development Administration Regional Offices.**

* * * * *

(e) *Western.* 1700 Westlake North, Seattle, WA 98109. Serving: Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Washington, and Northern Mariana Islands.

* * * * *

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3121); Department of Commerce Organization Order 10-4, 40 FR 56702)

Effective date: This amendment becomes effective on June 10, 1976.

It is hereby certified that the economic and inflationary impacts of these regulations have been carefully evaluated in accordance with OMB Circular A-107.

Dated: June 4, 1976.

J. W. EDEN,
*Acting Assistant Secretary for Economic Development.*

[FR Doc.76-16872 Filed 6-9-76;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-NE-20; Amdt. 39-2635]

### PART 39—AIRWORTHINESS DIRECTIVES

### Avco Lycoming T5508D Model Engines

There have been failures of the compressor air bleed band on an Avco Lycoming T5508D engine. This could result in a partial power loss if the bleed band fails while the engine is operating at a power level which requires the bleed band to be closed. Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being issued to:

(a) Require a daily inspection of the compressor air bleed band for edge wear and cracks, and repair or replacement if necessary.

(b) Require replacement of the affected components with improved design components prior to July 1, 1976.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AVCO LYCOMING. Applies to all Avco Lycoming T5508D model engines equipped with P/N 2-160-147-02 retaining plate spacers and P/N 2-161-182-01 compressor air bleed bands. Compliance required as indicated.

To prevent partial power loss due to failure of the compressor air bleed band while the engine is operating at a power level which requires the bleed band to be closed, perform the following:

(a) Prior to the first flight of each day, conduct an inspection of the compressor air bleed band for edge wear and cracks, and repair or replace as necessary in accordance with the instructions in Avco Lycoming Service Bulletin, Product Support No. 5508-0003, dated November 30, 1975, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

(b) Prior to July 1, 1976, replace P/N 2-160-147-02 retaining plate spacers with P/N 2-160-561-01 retainers and replace P/N 2-161-182-01 compressor air bleed band with P/N 2-161-182-03 compressor air bleed band, in accordance with the instructions in Avco Lycoming Service Bulletin, Product Support No. 5508-0007, dated April 30, 1976, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

(c) Equivalent methods of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

The manufacturer's Service Bulletins identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Avco Lycoming Engine Group, Stratford Division, 550 South Main Street, Stratford,

Connecticut 06497. These documents may also be examined at the Office of the Regional Counsel, New England Region, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the New England Regional Office in Burlington, Massachusetts.

This amendment becomes effective June 23, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Burlington, Massachusetts on June 2, 1976.

QUENTIN S. TAYLOR,
*Director,*
*New England Region.*

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.76-16791 Filed 6-9-76;8:45 am]

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[Airworthiness Docket No. 73-SW-39, Amdt. 39-2637]

## PART 39—AIRWORTHINESS DIRECTIVES

### Bell Model 206 Series Helicopters

Amendment 39-1727 (38 FR 27045), AD 73-20-6, requires a daily inspection for cracks in the tail rotor blades, P/N 206-010-750, on Bell Model 206 series helicopters. After issuing Amendment 39-1727, the agency has determined by service experience that these mandatory daily inspections are not necessary.

The agency has not received a report of a cracked tail rotor blade being found as a result of the inspections required by AD 73-20-6. By letter dated March 30, 1976, an operator requested relief from the requirements of AD 73-20-6 since they had conducted 47,332 inspections and accumulated in excess of 71,000 hours of time in service with no evidence of a cracked tail rotor blade. Therefore, the necessity for AD 73-20-6 is obviated.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by rescinding Amendment 39-1727 (38 FR 27045), AD 73-20-6.

This Amendment 39-2637 cancels and entirely deletes AD 73-20-6 and becomes effective June 14, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Forth Worth, Texas, on May 28, 1976.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.76-16630 Filed 6-9-76;8:45 am]

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[Airworthiness Docket No. 73-SW-60, Amdt. 39-2638]

## PART 39—AIRWORTHINESS DIRECTIVES

### Bell Models 47B, 47B-3, 47D, 47D-1, 47E, 47G, 47G-2, and 47H-1 Helicopters

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of 50 additional tail rotor yokes before attaining 400 hours' time in service for Bell Models 47B, 47B-3, 47D, 47D-1, 47E, 47G, 47G-2, and 47H-1 helicopters was published in 41 FR 15864.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Bell Models 47B, 47B-3, 47D, 47D-1, 47E, 47G, 47G-2, and 47H-1 helicopters certificated in all categories.

Compliance required as indicated.

To prevent possible fatigue failure of the tail rotor yoke, Part Number 47-641-057-9, remove and replace tail rotor yokes having Serial Number SR29-50501 through SR29-50507, SR29-50509 through SR29-50528, SR29-50530 through SR29-50533, SR29-50535 through SR29-50537, SR29-50539 through SR29-50544, and SR29-50546 through SR29-50554, as specified below.

(a) Replace those yokes with 390 or more hours' total time in service on the effective date of this AD, within 10 hours' time in service.

(b) Replace those yokes with less than 390 hours' total time in service on the effective date of this AD, prior to accumultaing 400 hours' total time in service.

(c) Compliance with Bell Helicopter Company Service Bulletin Number 47-05-73-1, Revision A, dated November 18, 1975, fulfills compliance with this AD.

(d) The requirements of this AD do not affect other Model 47 series helicopter tail rotor yokes.

This amendment becomes effective July 14, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Texas, on May 28, 1976.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.76-16631 Filed 6-9-76;8:45 am]

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[Airworthiness Docket No. 70-SW-19, Amdt. 39-2636]

## PART 39—AIRWORTHINESS DIRECTIVES

### Bell Model 47B, 47B-3, 47D, 47D-1, 47G, 47G-2, and 47H-1 Helicopters

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring installation of bolts, Part Number 47-461-194-1, and associated blade seals, Part Number 47-641-042-3, on Bell Models 47B, 47B-3, 47D, 47D-1, 47G, 47G-2 and 47H-1 helicopters within 300 hours' time in service was published in 41 FR 15863.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Bell Models 47B, 47B-3, 47D, 47D-1, 47G, 47G-2, and 47H-1 helicopters certificated in all categories.

Compliance required within 300 hours' time in service after the effective date of this AD unless already accomplished.

To prevent possible fatigue failure of tail rotor hub bolt, Part Numbers 47-641-052 -3 or -5, accomplish the following:

(a) Remove and disassemble the tail rotor hub and blade assembly.

(b) Remove the metal grease seal from each tail rotor blade grip and install the seal, Part Number 47-641-042-3, in each blade grip to clear the head of the hub bolt.

(c) Remove the hub assembly bolts, Part Numbers 47-641-052 -3 or -5, from the tail rotor hub assembly. Install hub bolts, Part Number 47-641-194-1, in the tail rotor hub as specified in paragraph 6-16.e., Section VI, Models 47D-1, 47G, and 47G-2 Maintenance and Overhaul Instruction Manual, as revised August 15, 1961, or as specified by equivalent FAA approved procedures.

(d) Assemble and track and balance the tail rotor hub and blade assembly as specified in the pertinent Model Maintenance and Overhaul Instruction Manual or as specified in FAA approved equivalent procedures.

(e) Compliance with Bell Helicopter Company Service Bulletin No. 47-76-1 dated January 5, 1976, or later approved revision fulfills compliance with this AD.

This amendment becomes effective July 14, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Texas, on May 28, 1976.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.76-16632 Filed 6-9-76;8:45 am]

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[Docket No. 76-NE-21; Amdt. 39-2639]

## PART 39—AIRWORTHINESS DIRECTIVE

### Pratt & Whitney JT8D Aircraft Engines

There have been numerous instances of failed second stage fan blade pin rivets on certain Pratt & Whitney JT8D aircraft engines that have resulted in liberation of the second stage fan blade. Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being issued to require an inspection of

the second stage fan blade pin rivets. The inspection must be accomplished prior to 1200 hours time in service since new blade pin rivets were installed, or within the next 300 hours time in service after the effective date of this AD, whichever is later, and repetitively at intervals of 600 hours time in service. In addition, the rivet and pin configuration must be replaced with an improved rivet and pin configuration by January 1, 1979.

The compliance time for the initial inspection has been established by the agency on the basis of safety considerations. To proceed with the issuance of a Notice in this instance could result in an extension of the initial inspection compliance time expressed in this AD. Therefore, accomplishment of the initial inspection required by this AD, within the time the agency has determined is necessary, makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable and this amendment becomes effective July 12, 1976. However, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in the light of comments received. All comments will be available both before and after the effective date in the Rules Docket for examination by interested parties. Operators are urged to submit their comments as early as possible since it may not be possible to evaluate comments received near the effective date in sufficient time to amend the AD before it becomes effective.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PRATT & WHITNEY AIRCRAFT. Applies to all Pratt and Whitney Aircraft JT8D -9, -11, -15 and -17 engines containing second stage fan blade pin, P/N 520456, rivet, P/N 520457, and bushing, P/N 520458.

Compliance required as indicated unless already accomplished.

A. To preclude liberation of second stage fan blades, inspect the blade pin rivet, P/N 520457, for loss of head or for missing bushing, P/N 520458, in accordance with P&WA Service Bulletin No. 4577 dated April 26, 1976, or later FAA approved revision or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region, prior to the accumulation of 1200 hours time in service since new blade pin rivets were installed or within the next 300 hours time in service after the effective date of this AD, whichever is later. Inspect thereafter at intervals not exceeding 600 hours time in service since the last inspection. Remove engines from service with failed second stage fan blade pin rivets before further flight.

B. Remove from service second stage fan blade pin, P/N 520456, rivet, P/N 520457, and bushing, P/N 520458, and replace with pin, P/N 758242, and rivet, P/N 760187, or other FAA approved parts prior to January 1, 1979.

The manufacturer's service bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt and Whitney Aircraft, 400 Main Street, East Hartford, Connecticut 06108.

These documents may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at Federal Aviation Administration Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the Federal Aviation Administration at its headquarters in Washington, D.C., and at the New England Regional Office in Burlington, Massachusetts.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective July 12, 1976.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Burlington, Massachusetts on June 2, 1976.

QUENTIN S. TAYLOR,
*Director,*
*New England Region.*

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.76-16792 Filed 6-9-76;8:45 am]

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[Docket No. 76-NE; Amdt. 39-2634]

## PART 39—AIRWORTHINESS DIRECTIVE

### Pratt and Whitney Aircraft JT9D Engine

There has been a rupture of a sixth stage turbine disk on a Pratt and Whitney JT9D turbofan engine. Investigation revealed a heavy oil loss due to a cracked oil pressure tube in the No. 4 bearing compartment permitting oil to leak into the turbine exhaust case diaphragm cavity. This cavity continued to fill with oil until it overflowed, through a hole in the case for the No. 4 bearing breather tube assembly, into the area between the turbine exhaust case and the sixth disk. The high temperature in this area ignited the oil which raised the disk temperature and resulted in disk rupture.

Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being isued to require a repetitive inspection of the engine tailpipe/exhaust area to determine if oil loss is occurring in the No. 4 bearing compartment area.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator 31 FR 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PRATT AND WHITNEY. Applies to all Pratt and Whitney Aircraft JT9D Turbofan Engines containing turbine exhaust cases, part numbers 701877, 728301 thru 728309, 731370 thru 731373, 731377, 731565, 738438, 739431, 745128, 746272 thru 746274, 749510, 752872 thru 752876, 754763, 756838 and 761943.

Compliance required once each day the engine is operated.

In order to preclude failure of the sixth stage turbine disk resulting from an oil fire in the No. 4 bearing area, visually inspect the engine tailpipe/exhaust case area, to determine if there is oil leakage from the No. 4 bearing area.

If oil leakage is found in the No. 4 bearing compartment area, either of the following corrective actions must be taken prior to further flight:

1. Inspect the No. 4 bearing oil pressure and scavenge tubes. Replace cracked or blocked tubes with new or serviceable parts.

2. Drill a drain hole in the turbine exhaust case inner flow path wall in accordance with Pratt and Whitney Alert Service Bulletin 4552 dated March 29, 1976, or later FAA approved revision.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt and Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at New England Region.

This amendment becomes effective June 22, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Massachusetts on June 1, 1976.

QUENTIN S. TAYLOR,
*Director,*
*New England Region.*

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.76-16789 Filed 6-9-76;8:45 am]

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[Airspace Docket No. 76-NE-8]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

### Alteration of Transition Area

On page 16829 of the FEDERAL REGISTER dated April 22, 1976 (41 FR 16829), the Federal Aviation Administration published a Notice of Proposed Rule Making which would alter the Madison, Connecticut, 700-foot Transition Area.

Interested parties were given thirty (30) days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulation is hereby adopted effective 0901 GMT, July 7, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)])

Issued in Burlington, Massachusetts, on May 28, 1976.

QUENTIN S. TAYLOR,
*Director,*
*New England Region.*

**§ 71.181 [Amended]**

In § 71.181 add the following transition area:

That airspace extending upwards from 700 feet above the surface within a 5-mile radius of the center (latitude 41°16'17" N., longitude 72°32'58" W.) of the Griswold Airport; within a 7-mile radius of the center of the airport extending clockwise from the 248° bearing to the 102° bearing.

[FR Doc.76-16790 Filed 6-9-76;8:45 am]

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[Docket No. 15772; Amdt. No. 1024]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and addition covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPS are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

**§ 97.23 [Amended]**

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective July 29, 1976.

Redding, CA—Redding Muni. Arpt., VOR Rwy 34, Amdt. 6
Redding, CA—Redding Muni. Arpt., VOR/DME Rwy 34, Amdt. 4

* * * effective July 22, 1976

Orlando, FL—Orlando Jetport at McCoy, VOR/DME Rwy 36L, Amdt. 1
Orlando, FL—Orlando Jetport at McCoy, VOR/DME Rwy 36R, Amdt. 5
Marion, IL—Williamson County Arpt., VOR Rwy 2, Amdt. 6
Marion, IL—Williamson County Arpt., VOR Rwy 20, Amdt. 8
Marion, IL—Williamson County Arpt., VOR-A, Amdt. 1
Louisville, KY—Bowman Field, VOR Rwy 32, Amdt. 9
Reidsville, NC—Shiloh Arpt., VOR/DME-A, Original
Grove City, PA—Grove City Arpt., VOR-A, Original
San Juan, PR—Puerto Rico Int'l Arpt., VOR Rwy 7 and 10, Amdt. 3

* * * effective May 28, 1976

Salt Lake City, UT—Salt Lake City Int'l Arpt., VOR Rwy. 16L, Amdt. 5
Salt Lake City, UT—Salt Lake City Int'l Arpt., VOR Rwy 16R, Amdt. 16.
Salt Lake City, UT—Salt Lake City Int'l Arpt., VORTAC Rwy 34L, Amdt. 2

* * * effective May 27, 1976

Ontario, CA—Ontario Int'l Arpt., VOR Rwy 25 (TAC), Amdt. 2
Rio Vista, CA—Rio Vista Muni. Arpt., VOR-A, Amdt. 1

* * * effective May 25, 1976

Long Beach, CA—Long Beach Arpt. (Daugherty Field), VOR Rwy 30 (TAC), Amdt. 3

**§ 97.25 [Amended]**

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective July 29, 1976.

Redding, CA—Redding Muni. Arpt., LOC/DME(BC) Rwy 16, Amdt. 2

* * * effective May 25, 1976

Long Beach, CA—Long Beach Arpt. (Daugherty Field), LOC(BC) Rwy 12, Amdt. 3

**§ 97.27 [Amended]**

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective July 29, 1976.

Redding, CA—Redding Muni. Arpt., NDB Rwy 34, Original

* * * effective July 22, 1976

Savannah, GA—Savannah Muni. Arpt., NDB Rwy 9, Amdt. 13
Marion, IL—Williamson County Arpt., NDB Rwy 20, Amdt. 2
Louisville, KY—Bowman Field, NDB Rwy 32, Amdt. 9

* * * effective July 15, 1976

Crescent City, CA—Jack McNamara Field, NDB Rwy 11, Original

* * * effective July 1, 1976

Laredo, TX—Laredo Int'l Arpt., NDB Rwy 17R, Original

* * * effective July 17, 1976

West Yellowstone, MT—Yellowstone Arpt., NDB Rwy 1, Original

* * * effective May 28, 1976

Salt Lake City, UT—Salt Lake City Int'l Arpt., NDB Rwy 34L, Amdt. 1

* * * effective May 27, 1976

Ontario, CA—Ontario Int'l Arpt., NDB Rwy 25, Amdt. 26

* * * effective May 25, 1976

Long Beach, CA—Long Beach Arpt. (Daugherty Field), NDB Rwy 30, Amdt. 3

**§ 97.29 [Amended]**

4. Section 97.29 is amended by originating, amending or canceling the following ILS SIAPs, effective July 29, 1976.

Redding, CA—Redding Muni. Arpt., ILS Rwy 34, Amdt. 5

* * * effective July 22, 1976

Savannah, GA—Savannah Muni. Arpt., ILS Rwy 9, Amdt. 16
Marion, IL—Williamson County Arpt., ILS Rwy 20, Amdt. 2
Orlando, FL—Orlando Jetport at McCoy, ILS Rwy 36L, Amdt. 4

* * * effective July 1, 1976

Laredo, TX—Laredo Int'l Arpt., ILS Rwy 17R, Original

* * * effective June 17, 1976

Riverside, CA—Riverside Muni. Arpt., ILS Rwy 9, Original
West Yellowstone, MT—Yellowstone Arpt., ILS Rwy 7, Original

* * * effective May 28, 1976

Knoxville, TN—McGhee Tyson Arpt., ILS Rwy 22R, Amdt. 1

Salt Lake City, UT—Salt Lake City Int'l Arpt., ILS Rwy 16L, Amdt. 4
Salt Lake City, UT—Salt Lake City Int'l Arpt., ILS Rwy 34L, Amdt. 33

* * * effective May 27, 1976

Ontario, CA—Ontario Int'l Arpt., ILS Rwy 25, Amdt. 27

* * * effective May 25, 1976

Long Beach, CA—Long Beach Arpt. (Daugherty Field), ILS Rwy 30, Amdt. 26

§ 97.31 [Amended]

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective July 29, 1976.

Denver, CO—Arapahoe County Arpt., RADAR-1, Amdt. 4

* * * effective May 28, 1976

Salt Lake City, UT—Salt Lake City Int'l Arpt., RADAR-1, Amdt. 11

* * * effective May 27, 1976

Ontario, CA—Ontario Int'l Arpt., RADAR-1, Amdt. 5, canceled

* * * effective May 25, 1976

Long Beach, CA—Long Beach Arpt. (Daugherty Field), RADAR-1, Amdt. 7, canceled

§ 97.33 [Amended]

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective July 22, 1976.

West Palm Beach, FL—Palm Beach Int'l Arpt., RNAV Rwy 13, Amdt. 2
San Juan, PR—Puerto Rico Int'l Arpt., RNAV Rwy 10, Amdt. 2

* * * effective May 25, 1976

Long Beach, CA—Long Beach (Daugherty Field), RNAV Rwy 25R, Amdt. 1
Long Beach, CA—Long Beach (Daugherty Field), RNAV Rwy 30, Amdt. 1

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on June 3, 1976.

JAMES M. VINES,
*Chief,*
*Aircraft Programs Division.*

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969 (35 FR 5610).

[FR Doc.76-16793 Filed 6-9-76;8:45 am]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8938-c]

### PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

**Liggett & Myers Inc.**

Subpart—Acquiring corporate stock or assets: § 13.5 Acquiring corporate stock or assets.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18)

*In the matter of Liggett & Myers Incorporated, a corporation*

Order requiring among other things, one of the largest manufacturers of dog food, located in Durham, N.C., to divest itself completely of a competitive company within one year, subject to F.T.C. approval. Additionally, the order prohibits the company from acquiring corporations engaged in selling or producing dog foods for a period of ten years.

The Final Order, is as follows: [1]

Respondent's appeal from the initial decision in this matter having been heard by the Commission upon briefs and oral argument by respondent and complaint counsel; and the Commission for the reasons stated in the accompanying opinion having concluded that the appeal should be denied;

*It is ordered,* That the initial decision, as supplemented and modified by the Commission's opinion in this matter, and the order contained in said initial decision, be, and hereby are adopted as the decision and order of the Commission.

Opinion of the Commission by Commissioner Nye.

The Final Order was issued by the Commission, April 29, 1976.

CHARLES A. TOBIN,
*Secretary.*

[FR Doc.76-16810 Filed 6-9-76;8:45 am]

[Docket No. 8996-c]

### PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

**Simeon Management Corp., et al.**

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.205 Scientific or other relevant facts. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures. 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 of deal: § 13.206 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, 52)

*In the matter of Simeon Management Corporation, a corporation, and John D. Howell, individually and as principal investor in Simeon Management Corporation; Simeons Weight Clinics Foundation, a corporation, and Robert Van Dine, and J. William Byrd, individually and as officers of Simeons Weight Clinics Foundation; Medical Weight Loss, Inc., a corporation; Darrel P. Simpson, individually and as an officer of Medical Weight Loss, Inc.; Bariatric Medical Clinics Management Corporation, a corporation, and David L. Cunningham, individually and as an officer of Bariatric Medical Clinics Management Corporation; Harvey J. Lobelson, an individual doing business as Weight Reduction Medical Clinic: C. M. Norcal, Inc., a corporation, and HCG Weight Clinics Foundation, a corporation, and Peter J. Marengo, III, and Joseph Costa, individually and as officers of C. M. Norcal, Inc. and HCG Weight Clinics Foundation*

Order requiring five independent California weight reduction clinic operators, among other things to cease failing to make conspicuous disclosure statements in advertising, and to potential purchasers that drugs used in weight reducing programs have not been approved by Federal Drug Administration as safe and effective for weight control; drugs do not cause more attractive redistribution of weight; and treatment required adherence to a 500 calorie daily diet.

The final order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

FINAL ORDER

This matter having been heard by the Commission upon the separate appeals of complaint counsel and respondents from the initial decision; and

The Commission having considered the oral arguments of counsel, their briefs, and the whole record; and

The Commission, for reasons stated in the accompanying Opinion, having denied in part and granted in part the appeal of complaint counsel and having denied in full the appeal of respondents' counsel; accordingly

*It is ordered,* That, except to the extent that it is inconsistent with the Commission's Opinion, the Initial Decision of the Administrative Law Judge be, and it hereby is, adopted together with the Opinion accompanying this Order as the Commission's final findings of fact and conclusions of law in this matter;

*It is further ordered,* That the following cease and desist order be, and it hereby is, entered:

ORDER

*It is ordered,* That respondents Simeon Management Corporation, Medical Weight Loss, Inc., Simeons Weight Clinics Foundation, Bariatric Medical Clinics Management Corporation, C. M. Norcal, Inc., and HCG Weight Clinics Foundation, corporations, their successors and assigns and their officers, and Harvey J. Lobelson, individually and trading and doing business as weight Reduction Medical Clinic, or under any

[1] Copies of the Complaint, Initial Decision, Opinion and Final Order, filed with the original document.

[1] Copies of the Complaint, Initial Decision, Opinion and Final Order, filed with the original document.

other name or names, his successors and assigns, and John D. Howell, Robert Van Dine, Darrel F. Simpson, J. William Byrd, David L. Cunningham, Peter J. Marengo, III, and Joseph Costa, individually and as officers, respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution, directly or indirectly, of the "Simeon" or "Simeons" treatment for weight reduction, of any other weight reducing service, product or treatment, or of any drug do forthwith cease and desist from disseminating or causing the dissemination of any advertisement for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of any drug or any weight control or reduction service, treatment, or product (where such advertisement is disseminated by means of the United States mail, or by any means in or affecting or having an effect upon commerce, or where said purchase would be in or affecting or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act) when performance of said treatment or service or use of said product or drug may involve the use of HCG or any drug in any manner or for any purpose, which manner or purpose would, if included in the labeling of such drug when such drug was introduced into commerce, cause such drug to be mislabeled under the terms of the Federal Food, Drug and Cosmetic Act, or which the Secretary of the Department of Health, Education, and Welfare or his delegate has, under color or authority of that Act, determined would cause said drug to be so mislabeled, without making the following disclosure in a clear and conspicuous manner:

THESE WEIGHT REDUCTION TREATMENTS INVOLVE THE INJECTION OF A PRESCRIPTION DRUG WHICH HAS NOT BEEN APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION AS SAFE AND EFFECTIVE IN THE TREATMENT OF OBESITY OR WEIGHT CONTROL. THERE IS NO SUBSTANTIAL EVIDENCE THAT THIS DRUG INCREASES WEIGHT LOSS BEYOND THAT RESULTING FROM CALORIC RESTRICTION, THAT IT CAUSES A MORE ATTRACTIVE OR "NORMAL" DISTRIBUTION OF FAT, OR THAT IT DECREASES THE HUNGER AND DISCOMFORT ASSOCIATED WITH CALORIE-RESTRICTIVE DIETS.

It is hereby provided that: (a) if the drug employed is not a prescription drug, respondents shall omit the word "prescription", (b) if the drug is not to be injected, respondents shall employ the word "use" instead of "injection", (c) if the advertised product, service, or treatment does not relate to weight reduction, respondents shall petition the Commission to request that the disclosure be reworded as is appropriate for the particular product, service, or treatment offered.

*It is further ordered,* That respondents cease and desist from disseminating or causing the dissemination of any advertisement for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of the "Simeon" or "Simeons" treatment for weight reduction (where such advertisement is disseminated by means of the United States mail, or by any means in or affecting or having an effect upon commerce, or where said purchase would be in or affecting or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act) without disclosing, in a clear and conspicuous manner, that the treatments usually include adherence to a 500 calorie daily diet

*It is further ordered,* That each respondent forthwith cease and desist from failing to furnish the following disclosure to each potential subscriber to the course of weight reduction treatments he offers (where such treatment involves the use of HCG or any drug in any manner or for any purpose, which manner or purpose would, if included in the labeling of such drug when such drug was introduced into commerce, cause such drug to be mislabeled under the terms of the Federal Food, Drug and Cosmetic Act, or which the Secretary of the Department of Health, Education and Welfare or his delegate has, under color of authority of that Act, determined would cause said drug to be so mislabeled) unless at the time of sale and prior to the sale becoming final and prior to the commencement of the treatment or service or transfer to the purchaser of the product or drug, there is clearly and conspicuously disclosed to the purchaser, in writing, the following statement:

THESE WEIGHT REDUCTION TREATMENTS INVOLVE THE INJECTION OF A PRESCRIPTION DRUG WHICH HAS NOT BEEN APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION AS SAFE AND EFFECTIVE IN THE TREATMENT OF OBESITY OR WEIGHT CONTROL. THERE IS NO SUBSTANTIAL EVIDENCE THAT THIS DRUG INCREASES WEIGHT LOSS BEYOND THAT RESULTING FROM CALORIC RESTRICTION, THAT IT CAUSES A MORE ATTRACTIVE OR "NORMAL" DISTRIBUTION OF FAT, OR THAT IT DECREASES THE HUNGER AND DISCOMFORT ASSOCIATED WITH CALORIE-RESTRICTIVE DIETS.

It is hereby provided that: (a) if the drug employed is not a prescription drug, respondents shall omit the word "prescription", (b) if the drug is not to be injected, respondents shall employ the word "use" instead of 'injection".

*It is further ordered,* That each respondent and its successor or assignee (1) deliver a copy of this Order to cease and desist to all persons now engaged, or who become engaged, in the management, advertising, promotion, or marketing of weight reducing treatments as respondent's agents, salesmen, representatives, franchisees or employees, (2) secure from each of said persons a signed statement acknowledging receipt of a copy thereof and (3) continue to engage such a person only so long as such person abides by the terms of this order.

*It is further ordered,* That each respondent and its successor or assignee notify the Commission at least thirty (30) days prior to any proposed change in their respective corporate respondent, successor or assignee, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, licensees, or franchisees, or any other change in the corporation which may affect compliance obligations arising out of this Order.

*It is further ordered,* That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the offering of treatments or other methods for reduction of weight or in the use of drugs which are required under the Federal Food, Drug and Cosmetic Act to be approved by the Food and Drug Administration as safe and effective for the conditions for which they are to be used and are not so approved. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order; and the full names and addresses of any parties to whom any respondent has sold, transferred or conveyed any interest in a business subject to the complaint which led to this order, since the date of service of said complaint. With respect to any such sale, transfer or conveyance, the report shall set forth in detail the date of each transaction, the nature and extent of any respondent's continuing interest in the business resulting from said transaction, the manner and form in which any purchaser was given notice of the pendency of the subject complaint, and any other information which may affect compliance obligations arising out of this order.

Opinion of the Commission by Commissioner Dole.

Chairman Collier having not participated in the oral argument in this matter, did not participate in its resolution.

The Final Order was issued by the Commission April 29, 1976.

CHARLES A. TOBIN,
*Secretary.*

[FR Doc.76-16811 Filed 6-9-76;8:45 am]

[Docket No. C-2638]

## PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

### Weaver Airline Personnel School, Inc., et al.

For codification under Part 13 and final order see 40 FR 15872.

(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)

*In the matter of Weaver Airline Personnel School, Inc., and General Educational Services Corporation*

Order requiring respondents to show why order to cease and desist should not be altered and modified; reopening the proceeding; and staying and suspending until further order of the Commission the enforcement of and respondents' duty to comply with Paragraph 12 of the order.

The Order to show cause and order modifying order is as follows:

On February 24, 1976, the Commission issued an order to show cause why the Order to Cease and Desist, issued February 13, 1975, in this proceeding, should not be reopened and Paragraph 12 of said order modified and altered. Paragraph 12 requires the creation of an escrow account from which partial restitution to certain students is to be made. Complaint counsel represented to the Commission, and respondents do not deny, that federal tax liens in the amount of $564,611 may attach to such escrow account, just they they have attached to the accounts receivable of respondent Weaver Airline Personnel School, Inc.

Paragraph 12 further requires respondent Weaver to notify former students who had made partial payments towards tuition on the date the order became final of their right to partial restitution if they make affirmations as set out in the order. Since one of the affirmations is that a student has paid his tuition in full, the notifying letter would encourage former students to pay their outstanding accounts in the expectation of receiving partial restitution. The satisfaction of the federal tax liens out of the escrow account could eliminate or substantially diminish the funds in the escrow account. Therefore, to avoid the possibility that respondents' compliance with Paragraph 12 would encourage student funding of an escrow account that would not benefit the students, our Order to Show Cause proposed to modify Paragraph 12 by staying and suspending respondents' duty to comply with Paragraph 12 until further order of the Commission.

It is now clear, however, that the necessity for a permanent stay is obviated by Paragraph 13 of the order, which provides that respondent General Educational Services Corporation (GESC) will guarantee the restitution requirements imposed upon respondent Weaver Airlines under the order. Respondent GESC, in its letter of March 3, 1976, to Eric Rubin, Assistant Director for Compliance, Bureau of Consumer Protection, agrees that Paragraph 13 applies "to the eligible Weaver students described in Paragraph 12 of the order pursuant to the terms and conditions of such order." Complaint counsel suggest, however, a possible ambiguity as to the application of Paragraph 13 to Paragraph 12, believing that it is possible to read Paragraph 12 so that "respondents' obligation to pay restitution could * * * be construed as requiring the distribution of only the amount of money left in the escrow account after levy on the tax lien," and not requiring distribution by GESC on the date specified by Paragraph 12 if a payout from the escrow account is prevented by a tax lien.

We disagree with this interpretation. We recognize, however, that we are not the final arbiter in the interpretation of Commission orders, and that if a court should disagree with us as to the application of Paragraph 13 to Paragraph 12, students making payment to the escrow account might ultimately be harmed. We, therefore, find it necessary to clarify the order.

Accordingly,

*It is ordered*, Pursuant to § 5(b) of the Federal Trade Commission Act and § 3.72 of the Commission's Procedures and Rules of Practice, that on or before the thirtieth (30th) day after service of the Order to Show Cause upon them, respondents show cause, if any there be, why the Commission should not alter and modify said Order by issuing the following Order:

*It is ordered*, That the following language be added to Paragraph 12(2)(c) of the Order:

Provided, however, That if any of the sums required to be deposited into the Escrow Funds have been removed at any time or for any other reason cannot be distributed within thirty (30) days after the final date established for submission of student requests for restitution under this Paragraph, respondent General Educational Services Corporation, as guarantor, shall assure that the total sum paid in restitution under this Paragraph includes funds that have been removed, and that the total sums required to be deposited into the Escrow Fund for restitution are paid no later than sixty (60) days after the final date established for submission of student requests for restitution under this Order.

* * * * *

Because the obligation of GESC has not been finally resolved, it is necessary to continue the stay of respondents' compliance with Paragraph 12.

Accordingly,

*It is ordered*, That the proceeding be, and it hereby is reopened.

*It is further ordered*, That the enforcement of the notification requirement of Paragraph 12 of the Order of February 13, 1975, and the respondents' duty to comply therewith be, and they hereby are, stayed and suspended until further order of the Commission.

The Order to show cause and order modifying order was issued by the Commission May 18, 1976.

CHARLES A. TOBIN,
*Secretary.*

[FR Doc.76-16812 Filed 6-9-76;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[FRL 559-4; FAP3N5032/R24]

## PART 123—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

### 2,4-D

On April 1, 1976, notice was given (41 FR 13984) that the Tennessee Valley Authority, 268-401 Building, Chattanooga TN 37401, had filed a petition (FAP 3H5032) with the Environmental Protection Agency (EPA). This petition proposed that CFR 123.100 be amended by establishing a regulation permitting the use of the herbicide and plant regulator 2,4-dichlorophenoxyacetic acid (2,4-D) in potable water with a tolerance limitation of 0.1 part per million for residues resulting from the application of its dimethylamine salt or its butoxyethanol ester for Eurasian watermilfoil control in programs conducted by the Tennessee Valley Authority in dams and reservoirs of the TVA system. No comments were received by the Agency in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136 et seq.). Therefore, the regulation is being established as proposed.

Any person adversely affected by this regulation may, on or before July 12, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on June 10, 1976, 21 CFR 123.100 is amended as set forth below.

(Sec. 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348))

Dated: June 4, 1976.

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

21 CFR 123.100 is amended by adding paragraph (d) under the paragraph beginning "0.1 part per million * * *" to read as follows.

**§ 123.100 2,4-D.**

* * * * *

(d) as a result of application of its dimethylamine salt or its butoxyethanol ester for Eurasian watermilfoil control in programs conducted by the Tennessee

Valley Authority in dams and reservoirs of the TVA system.

* * * * *

[FR Doc.76-16760 Filed 6-9-76;8:45 am]

## Title 23—Highways

## CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

### SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

### PART 655—TRAFFIC OPERATIONS

### Traffic Control Devices on Federal-Aid and Other Streets and Highways; Correction

● *Purpose.* The purpose of this document is to correct a citation in the regulations. ●

In FR Document 74-22948, appearing at page 35651 in the FEDERAL REGISTER October 3, 1974 (23 CFR 655.606(b)), the reference to "paragraph 8(c) of this part" is corrected to read "section 655.-607(c) below."

Issued on: May 28, 1976.

DOWELL H. ANDERS,
*Acting Chief Counsel.*

[FR Doc.76-16825 Filed 6-9-76;8:45 am]

## PART 663—BIKEWAY DEMONSTRATION PROGRAM

● *Purpose.* The purpose of this document is to issue final regulations implementing Section 119, "Bikeway Demonstration Program," of the Federal-Aid Highway Amendments of 1974 enacted January 4, 1975, as Public Law 93-643. ●

On February 26, 1976, there was published in the Federal Register by the Federal Highway Administration an interim regulation adding Part 663 to this chapter.

The public was invited to participate in the formulation of a final regulation through the submission of written comments. Only two interested groups submitted comments on the regulations as published in the Federal Register by the March 30 deadline. However, many comments were received from State transportation agencies and FHWA field offices on the corresponding internal directive simultaneously provided to these organizations.

Much of the concern expressed in the comments was directed at the short time permitted between the date of issuance of the directive and the dates proposals for the projects had to be submitted to the State highway agencies and Washington Headquarters. Accordingly, in section 663.19 the period has been extended for 2 months. Under the final regulations, projects must be submitted to the State by August 1, 1976, and to Washington Headquarters by September 15, 1976.

A number of comments expressed concern that disqualifying all bikeway projects that are eligible for funding as incidental features of Federal-aid highway construction projects would eliminate many potential worthwhile bikeways which although eligible would never be constructed as part of the Federal-aid highway program. For this reason, § 663.5 was revised to allow bikeway projects which would be eligible as incidental features of highway projects provided the highway project has not been advanced beyond a certain stage. Where highway improvement projects are planned and the bikeway can be constructed as a part of such improvement, the bikeway should be constructed as an incidental feature of the highway construction project in accordance with Part 652 of this chapter. Section 663.5 was also revised to include the requirement in the law that an urban area must include an urban system as designated by the State highway department under section 103 (d) of Title 23 U.S.C. and in accordance with Part 473A of this chapter in order to be eligible for funding under this program.

It was suggested that, in addition to the American Association of State Highway and Transportation Officials' "Guide for Bicycle Routes," equivalent standards developed in cooperation with State or local officials and acceptable to the Division Office of FHWA be permitted. This suggestion was adopted and § 663.7 has been modified to permit the use of standards approved by the Division Offices of FHWA.

A number of comments were received from States expressing concern that although they had responsibilities as outlined in the directive they did not have any voice in the selection process. Accordingly, § 663.11 of the regulation was revised to request State comments on each proposal submitted. These comments will be considered in the selection process.

A number of comments were received expressing concern that the regulation required applicants to obtain information on previous funding of bikeway facilities by other organizations. This could be very difficult, if not impossible, in many cases so the requirement was deleted.

In its place, however, a requirement was added, to insure accommodation with 23 U.S.C. 134, that proposals contain a description of the extent to which the project plays a part in the transportation system management strategy of the Transportation Improvement Program (TIP). The extent to which the project plays a part was also made a criterion of the selection process. The TIP regulations (Part 450C of this chapter) were published in the FEDERAL REGISTER on September 17, 1975 (40 FR 42979).

A suggestion was made that informing the public of new facilities is sometimes an important consideration. Therefore, an additional requirement was added in § 663.15 making each proposal contain a brief description of the plan for informing the public of the existence and nature of the new facility.

A suggestion was made that one of the criteria for selection should be the likelihood of early implementation. This criterion was added to § 663.15 also.

Appendix A has been revised to include space for the Project Contact Person's address and telephone number.

This regulation codifies Volume 6, Chapter 9, Section 14 of the Federal-Aid Highway Program Manual.

*Effective date:* June 11, 1976.

Issued on: June 4, 1976.

NORBERT T. TIEMAN,
*Federal Highway Administrator.*

Chapter I of title 23 is amended by substituting the final regulation as Part 663 in place of the Interim Regulation.

Sec.

663.1 Purpose.
663.3 Definitions.
663.5 Eligible Projects.
663.7 Construction Standards.
663.9 Federal Participation.
663.11 Application Procedures.
663.13 Content of Proposals.
663.15 Project Selection Criteria.
663.17 Programming and Fiscal Procedures.
663.19 Submission Date.
Appendix A—Summary Sheet.

AUTHORITY: Section 119, Pub. Law 93-643, 88 Stat. 2288, 23 U.S.C. 315, 49 CFR 1.48(b).

### § 663.1 Purpose.

This part prescribes the policies and procedures for administering the Bikeway Demonstration Program which is intended to provide additional Federal funds for bikeway projects of national interest and promote bicycling as a safe and viable alternative mode of transportation for commuter and/or recreational use in urban or urbanized areas.

### § 663.3 Definitions.

As used herein:

(a) *"Bikeway."* A bicycle lane or path, a bicycle traffic control device, a shelter, a parking facility, or other support facility to serve bicycles and persons using bicycles.

(b) *"Urbanized area."* An area (of more than fifty thousand population) so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval of the Federal Highway Administrator and the Urban Mass Transportation Administrator. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.

(c) *"Urban area."* An urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized areas in each State, or an urban place as designated by the Bureau of the Census, having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Federal Highway Administration. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

(d) *"State."* Any one of the fifty States, the District of Columbia, or Puerto Rico.

(e) *"Applicant."* A public agency or a nonprofit public service organization.

(f) *"Grantee."* A State, acting for itself, or on behalf of an applicant.

**§ 663.5 Eligible projects.**

(a) Grants made for projects under this section shall be in addition to, and not in lieu of, funds made available for bicycle projects under the provisions of Part 652 of this chapter, "Bikeways and Pedestrian Walkways in Conjunction with Federal and Federal-aid Highways." The following bikeway projects are *not* eligible for Bikeway Demonstration funds:

(1) Bikeway projects currently advanced to the "authorization to proceed" stage for any phase of work (Part 630A of this chapter), and

(2) Bikeway projects which are eligible for funding as incidental features of: current Federal-aid highway construction projects; or highway projects currently advanced to the "authorization to proceed" stage for any phase of work (Part 630A of this chapter).

(b) Bikeway demonstration projects eligible for funding shall be used for commuting and/or recreational purposes, and shall be located in urbanized areas and such other urban areas as are designated by the State highway department under subsection 103(d) of title 23 U.S.C. and in accordance with Part 473A of this chapter.

(c) Bikeway demonstration projects in urbanized areas shall be in accordance with the continuing comprehensive transportation planning process carried on cooperatively by States and local communities pursuant to Part 450A of this chapter.

(d) The provisions of title 23 U.S.C. apply. Federal-aid procedures established by existing directives are to be followed except where otherwise prescribed. Many bikeway projects will be of such a nature or magnitude that they will not have a significant impact on the environment. Therefore, in accordance with the policy prescribed in 23 U.S.C. 101(e) the timesaving procedures for specific projects outlined in § 655.506(b) of this chapter for Highway Safety Improvement Program projects should be utilized to the extent feasible.

**§ 663.7 Construction standards.**

The American Association of State Highway and Transportation Officials' "Guide for Bicycle Routes" or equivalent standards developed in cooperation with State or local officials and acceptable to the Division Office of the FHWA shall be used as standards for the construction and design of bicycle routes. Reasonable deviations will be permitted in the interest of demonstrating innovations in bikeway design. These deviations should be briefly explained in the proposal.

**§ 663.9 Federal participation.**

(a) The Federal share of any demonstration project for the construction of a bikeway shall be 80 per centum of the total eligible cost of such project.

(b) Federal participation in eligible bikeway demonstration projects may include the cost of preliminary engineering, right-of-way, construction, and evaluation.

**§ 663.11 Application procedures.**

(a) Applicants shall submit eight (8) copies of their proposal to the appropriate State highway agency which will transmit seven (7) copies of each proposal, together with their comments, to the Regional Federal Highway Administrator through the FHWA Division Office. When the State highway agency is the applicant, only seven (7) copies need be submitted.

(b) The FHWA Regional Office shall review the proposals, together with State and Division Office comments, recommend not more than ten (10) proposals for demonstration in the Region, and transmit five (5) copies of each recommended proposal and one copy of all other proposals together with the Region's comments to the FHWA Design Division, HNG-20, Washington Headquarters. The Regional Office shall ensure that the applicants are notified of the Region's action on the proposals.

(c) The Federal Highway Administration shall make the final selection of projects on a nationwide basis. A committee composed of representatives from appropriate Department of Transportation offices will make the initial project selections and forward their recommendations to the Federal Highway Administrator for final project selection.

(d) The State Highway agency will be responsible for:

(1) Certifying the proposed project(s) as being in accordance with section 134 of title 23 U.S.C.,

(2) Making the program funds available to the selected applicants,

(3) Overseeing project evaluation and the preparation of a final evaluation report, and

(4) Ensuring that projects are completed in substantial conformance with the details outlined in the applicant's proposal.

**§ 663.13 Content of proposals.**

Each proposal should include as appropriate:

(a) A statement summarizing the need for the proposed project,

(b) Concise statement(s) of what the project is designed to demonstrate and the expected results and benefits,

(c) A description of project activities, including how and where the demonstration project will be implemented,

(d) A demonstration project time schedule (including future use beyond end of demonstration period) and plans for development, implementation and operation,

(e) A brief description of the area, available transportation facilities, and other proposed or existing bicycle transportation system improvements,

(f) A summary of project costs and breakdown of funding sources,

(g) A description of an evaluation plan to measure the success in achieving the project objectives,

(h) Identification of participating organizations and a statement on coordination with ongoing planning efforts,

(i) A description of the extent to which the project plays a part of a transportation system management strategy of the transportation improvement program (TIP),

(j) A determination that:

(1) For urbanized areas the project is in accordance with Section 134 of title 23 U.S.C. and

(2) A public agency will be responsible for maintenance,

(k) A one-page project summary sheet (see Appendix A), and

(l) A brief description of the applicant's plan for informing the public of the existence and nature of the new bikeway facility, if applicable.

**§ 663.15 Project selection criteria.**

(a) Emphasis will be on the selection of a range of projects with potential for nationwide application—differing sizes, types, and geographic locations—in which maximum benefits are achieved soon after project completion.

(b) The following criteria will be applied by FHWA Regional and Washington Headquarters in selecting demonstration projects:

(1) Application of new ideas in design, construction, operation, maintenance, utilization, and promotion of bikeways. Particular emphasis will be given to those projects that will provide a safe bicycling environment,

(2) Involvement in the project by local, State, and Federal agencies,

(3) Extent to which the project supports the development and/or implementation of any bikeway portion of a transportation system management element (TSME) being considered in the TIP,

(4) Quality of proposed monitoring and evaluation, along with the ability to modify the facility or operation as a result of that evaluation,

(5) Likelihood of early implementation, and

(6) The present and projected utility of the proposed project, and the degree to which the project will serve in satisfying community and national goals such as in reducing air pollution and energy consumption.

**§ 663.17 Programming and fiscal procedures.**

(a) Once a project has been approved, no further programming action is required. Project development shall be in accordance with procedures applicable to Federal-aid highway projects unless modified by this regulation.

(b) Upon selection of projects, allotments will be made to the Regional Administrators for projects located in their region. Payment of the Federal share of the costs incurred will be made through the States' current billing procedures as a construction project.

**§ 663.19 Submission date.**

Proposals shall be submitted to the appropriate State Highway agency by August 1, 1976.

Proposals shall be received in the Washington Headquarters by September 15, 1976.

APPENDIX A—SUMMARY SHEET

BIKEWAY DEMONSTRATION PROJECT

1. Project Title or Identification No. _____
2. Project Sponsor _____
3. Project Contact Person _____
Address: _____ Tel. No. _____
4. Type of Service: Mainly Commuter ____, Mainly Recreational _____, Both _____.
5. Project Length (if applicable) _____.
6. Estimated Total Cost: _____
Estimated Bikeway Demonstration Funds: _____
7. Estimated Average Number of Weekly Bicyclists: _____ 1st Yr. _____ 2nd Yr.
8. Brief Summary of Demonstration Project Objectives and Expected Results (one paragraph): _____

[FR Doc.76-16778 Filed 6-9-76;8:45 am]

## Title 24—Housing and Urban Development

## CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

[Docket No. FI-844]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation for the Township of Upper, Cape May County, N.J.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Upper under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, 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. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Township Hall, Tuckhoe, New Jersey.

| Source of flooding | Location | Elevation in feet above mean sea level | Width in feet from bank of stream to 100-yr flood boundary facing downstream | |
|---|---|---|---|---|
| | | | Left | Right |
| Tuckahoe River | Garden State Parkway | 9 | (1) | 2,300 |
| | Highway 9 | 9 | (1) | 600 |
| | Dennisville Rd | 9 | (1) | 600 |
| | Pennsylvania-Reading Seashore RR | 9 | (1) | 25 |
| | Highway 49 | 9 | (1) | 150 |
| Cedar Swamp Creek | Highway 50 | 9 | 1,850 | 1,850 |
| | Tuckahoe Rd | 9 | 4,100 | 6,050 |
| Atlantic Ocean | Tyler Rd (extended) | 9 | 4,100 | 4,100 |
| | Pennsylvania-Reading Seashore RR | 9 | [2] 6,700 | [2] 6,700 |
| | Roosevelt Blvd | 9 | [2] 5,600 | [2] 5,600 |

[1] Corporate limits.
[2] From corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: May 21, 1976.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.76-16750 Filed 6-9-76;8:45 am]

[Docket No. FI-2015]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation for the Town of Washington Park, N.C.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Washington Park, North Carolina under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, 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. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Washington Park Municipal Building, 419 Fairview Street, Washington Park, North Carolina 27889.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

| Source of flooding | Location | Elevation in feet above mean sea level | Width in feet from shoreline or bank of stream (facing downstream) to 100-yr flood boundary |
|---|---|---|---|
| Pamlico River | Pine St | 10 | Street section south of north shoulder of Isabella Ave. |
| | College Ave | 10 | Street section southeast from point 400 ft southeast of Pine St. |
| | Pine St | 10 | Street section north from point 70 ft north of Isabella Ave. |
| | River Rd | 10 | Street section west from point 600 ft west of Hickory St. |
| | College Ave | 10 | Street section west from point 340 ft west of Pine St. |
| | Hickory St | 10 | Street section south from point 80 ft south of Small St. |
| | Spruce St | 10 | Street section south from point 170 ft south of Small St. |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: May 21, 1976.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.76–16751 Filed 6–9–76;8:45 am]

[Docket No. FI–847]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation for the Borough of Upland, Delaware County, Pa.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determination of flood elevations for the Borough of Upland, Delaware County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, 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. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100–year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Borough Hall, Main and Castle Avenues, Upland.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

| Source of flooding | Location | Elevation in feet above mean sea level | Width in feet from bank of stream to 100-yr flood boundary facing downstream | |
|---|---|---|---|---|
| | | | Left | Right |
| PRESENT CONDITIONS | | | | |
| Chester Creek | East corporate limits | 25 | 280 | (1) |
| | B. & O. RR | 25 | 440 | (1) |
| | West 21st St. (extended) | 25 | 240 | (1) |
| | 24th St. (extended) | 26 | 260 | (1) |
| | Kerlin St | 26 | 320 | (1) |
| | Hill St. (extended) | 26 | 480 | (1) |
| | 8th St. (extended) | 26 | 920 | (1) |
| | 7th St. (extended) | 26 | 520 | (1) |
| | 4th St. (extended) | 26 | 680 | (1) |
| | Main St. (extended) | 27 | 740 | (1) |
| | Upland Rd | 28 | 560 | (1) |
| | West Corporate limts | 29 | 420 | (1) |
| Maris Run | Church St | | 120 | 80 |
| | 11th St | | 120 | 120 |
| | Main St | | 120 | 120 |
| Luken's Run | Roland Rd | | 120 | 80 |
| | Church St | | 120 | 150 |
| | North corporate limits | | 80 | 220 |
| FUTURE CONDITIONS DUE TO NEW STORM SEWERS | | | | |
| Chester Creek | East corporate limits | 25 | 280 | (1) |
| | B. & O. RR | 25 | 440 | (1) |
| | West 21st St. (extended) | 25 | 260 | (1) |
| | 24th St. (extended) | 26 | 280 | (1) |
| | Kerlin St | 26 | 280 | (1) |
| | Hill St. (extended) | 26 | 400 | (1) |
| | 8th St. (extended) | 26 | 1,160 | (1) |
| | 7th St. (extended) | 26 | 240 | (1) |
| | 4th St. (extended) | 26 | 660 | (1) |
| | Main St. (extended) | 27 | 720 | (1) |
| | Upland Rd | 28 | 540 | (1) |
| | West corporate limits | 29 | 400 | (1) |
| Maris Run | Church St | | 160 | 100 |

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: May 21, 1976.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.76-16753 Filed 6-9-76;8:45 am]

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[Docket No. FI-846]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation for the Township of Cheltenham, Montgomery County, Pa.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for Cheltenham under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, 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. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Mr. Price's Office, Administration Building, 8230 Old York Road, Elkins Park.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

| Source of flooding | Location | Elevation in feet above mean sea level | Width in feet from bank of stream to 100-yr flood boundary facing downstream | |
|---|---|---|---|---|
| | | | Left | Right |
| Tacony Creek | Cheltenham Ave | 74 | 100 | 50 |
| | Livick St | 86 | 160 | 40 |
| | Central Ave | 98 | 220 | 120 |
| | Jenkintown Rd | 113 | 125 | 345 |
| | New 2d St | 126 | 90 | 200 |
| | High School Rd | 144 | 190 | 45 |
| | Old York Rd | 160 | 55 | 235 |
| | Church Rd. Bridge (at foot of Ivy Lane) | 174 | 125 | 85 |
| | Washington Lane | 190 | 80 | 45 |
| | Foot of Heacock Lane | 194 | 80 | 175 |
| | Greenwood Ave | 203 | 75 | 105 |
| | Prices Mill Rd | 224 | 155 | 85 |
| | Bickley Rd | 238 | 540 | 145 |
| | Springhouse Lane | 244 | 120 | 90 |
| | Limekiln Turnpike | 253 | 55 | 40 |
| Jenkintown Creek | Foot of Hammond Road at Jenkintown Rd. | 114 | 165 | 50 |
| | Church Rd | 133 | 90 | 55 |
| Rock Creek | Widener Rd | 182 | 140 | 45 |
| | Serpentine Lane Bridge | 186 | 160 | 125 |
| | Rock Lane Bridge | 188 | 50 | 145 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: May 21, 1976.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.76-16752 Filed 6-9-76;8:45 am]

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## Title 40—Protection of Environment

## CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 558-3; OPP-260020]

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

### Parathion or Its Methyl Homolog

On November 12, 1974, the Environmental Protection Agency (EPA) announced (39 FR 39878) that in response to a pesticide petition (PP 1F1091) submitted by the National Agricultural Chemicals Association, 1155 15th St. NW, Washington DC 20005, a tolerance had been established for a negligible residues of the insecticide parathion or its methyl homolog in or on the raw agricultural commodities almonds, filberts, pecans, potatoes, safflower seed, sorghum, sugar beets, sugar beet tops, sugarcane, sugarcane fodder and forage, sweet potatoes, and walnuts at 0.1 part per million (ppm).

Prior to the establishment of this tolerance, an interim tolerance (40 CFR 180.319) had been estabilshed (37 FR 17554) for the raw agricultural commodities listed above at 0.1 ppm. Because a permanent tolerance has been established, it is not necessary that this interim tolerance remain codified as part of the regulations. Therefore, 40 CFR 180.319 is being amended by deleting the table entry headed "0.1 ppm" for parathion or its methyl homolog, as set forth below.

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

Dated: June 4, 1976.

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

### § 180.319 [Amended]

Part 180, Subpart C, § 180.319, is amended by deleting the entry "0.1 part per million * * *" from the table entries under the heading "Parathion (*O,O*,-diethyl-*O*-*p*-nitrophenylthiophosphate) or its methyl homolog".

[FR Doc.76-16761 Filed 6-9-76;8:45 am]

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[FRL 559-3; PP6F1665/R96]

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

### Propargite

On September 19, 1975, notice was given (40 FR 43273) that Uniroyal Chemical Co., 74 Amity Rd., Bethany CT

06525, had filed a petition (PP 6F1665) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.259 be amended by establishing a tolerance for residues of the miticide propargite (2-(*p-tert*-butylphenoxy) cyclohexyl 2-propynyl sulfite) in or on the raw agricultural commodities peanuts at 0.1 part per million (ppm) and peanut forage, hay, and hulls at 10.0 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated and it is concluded the tolerances should be established. The pesticide is oconsidered useful for the purposes for which the tolerance is sought. The existing tolerances for meat, milk, poultry, and eggs are adequate to cover any secondary residues resulting from the proposed use. Additional amendments to 40 CFR 180.259 are also being made at this time. Since data on cattle can be translated to horses as well, § 180.259 is being amended to include a tolerance of 0.1 ppm in the fat, meat, and meat byproducts of horses and the current tolerance for corn grain (including popcorn) at 0.1 ppm is being revised to read simply corn grain since the commodity by definition includes this variety of corn. In addition, the negligible residue (N) designation has been removed from all existing tolerances because long-term feeding studies are now available. The tolerances established by amending 40 CFR 180.259 will protect the public health.

Any person adversely affected by this regulation may, on or before July 12, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St. SW. Washington DC 20460. Such objections should be submitted in quintuplicate and specify the provisions for the regulation deemed objectionable and the grounds for the objections. If a hearing is requested the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on June 10, 1976, 40 CFR 180.259 is amended as set forth below.

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

Dated: June 4, 1976.

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

Title 40, Part 180, Subpart C, § 180.259, is amended and revised as follows.

**§ 180.259 Propargite; tolerances for residues.**

Tolerances are established for residues of the pesticide propargite (2-(*p-tert*-butylphenoxy) cyclohexyl 2-propynyl in or on the following raw agricultural commodities.

| Commodity: | *Parts per Million* |
|---|---|
| Almonds | 0.1 |
| Almonds, hulls | 55.0 |
| Apples | 33.0 |
| Apricots | 7.0 |
| Cattle, fat | .1 |
| Cattle, mbyp | .1 |
| Cattle, meat | .1 |
| Corn, fodder | 10.0 |
| Corn, forage | 10.0 |
| Corn, grain | .1 |
| Cottonseed | .1 |
| Cranberries | 10.0 |
| Eggs | .1 |
| Figs | 3.0 |
| Goats, fat | .1 |
| Goats, mbyp | .1 |
| Goats, meat | .1 |
| Grapefruit | 5.0 |
| Grapes | 10.0 |
| Hogs, fat | .1 |
| Hogs, mbyp | .1 |
| Hogs, meat | .1 |
| Hops | 15.0 |
| Horses, fat | .1 |
| Horses, mbyp | .1 |
| Horses, meat | .1 |
| Lemons | 5.0 |
| Milk, fat (0.08 ppm in milk) | 2.0 |
| Mint | 50.0 |
| Nectarines | 4.0 |
| Oranges | 5.0 |
| Peanuts | .1 |
| Peanuts, forage | 10.0 |
| Peanuts, hay | 10.0 |
| Peanuts, hulls | 10.0 |
| Peaches | 7.0 |
| Pears | 3.0 |
| Plums (fresh prunes) | 7.0 |
| Poultry | .1 |
| Potatoes | .1 |
| Sheep, fat | .1 |
| Sheep, mbyp | .1 |
| Sheep, meat | .1 |
| Strawberries | 7.0 |

[FR Doc.76-16771 Filed 6-9-76;8:45 am]

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[FRL 558-4; PP6E1719 & 4F1428/R91]

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

### Terbacil

*PP6E1719* On April 6, 1976, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (41 FR 14527) a notice of proposed rulemaking pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act to amend 40 CFR 180.209 by establishing a tolerance for combined residues of the herbicide terbacil (3 - *tert* - butyl - 5-chloro-6-methyluracil) and its hydroxylated metabolites (calculated as terbacil) in or on the raw agricultural commodity blueberries at 0.1 part per million (ppm). This action was taken in response to a pesticide petition (PP 6E1719) submitted to the Agency by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick NJ 08903, on behalf of the IR-4 Technical Committee and the State Agricultural Experiment Stations of Connecticut, New Jersey, North Carolina, Pennsylvania, and West Virginia. No comments or requests for referral to an advisory committee were received with regard to this notice of proposed rulemaking.

Effective on June 10, 1976, therefore, 40 CFR 180.209 is amended as proposed. This tolerance will protect the public health.

*PP4F1428* On October 26, 1973 the EPA gave notice (38 FR 29645) that E. I. DuPont de Nemours & Co., Inc., Wilmington DE 19898, had filed a pesticide petition (PP 4F1428). This petition proposed that 40 CFR 180.209 be amended by establishing tolerances for residues of terbacil and its hydroxylated metabolites (calculated as terbacil) in or on the raw agricultural commodities alfalfa (hay and forage) and birdsfoot trefoil (hay and forage) at 5 ppm, and in milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 ppm.

This petition was subsequently amended to request the establishment of tolerances in or on alfalfa hay and forage at 5 ppm, in milk fat at 0.5 ppm (reflecting 0.1 ppm in whole milk), and in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 ppm.

The data submitted in the petition and other relevant material have been evaluated, and the pesticide is considered to be useful for the purpose for which the tolerances are sought. The tolerances established by amending 40 CFR 180.209 are adequate to cover residues resulting in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep, and there is no reasonable expectation of residues in poultry and eggs as delineated in 40 CFR 180.6(a)(3). The tolerances established by amending 40 CFR 180.209 will protect the public health, and it has been concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before July 12, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Room 1019, East Tower, 401 M St. SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on July 12, 1976, 40 CFR 180.209 is revised as set forth below.

(Secs. 408(e) and 408(d)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e) & (d)(2)])

Dated: June 4, 1976.

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

Part 180, Subpart C, § 180.209 is revised (1) by designating the existing tolerances as paragraph (a), (2) by adding the new paragraph (b) containing

tolerances for residues of the herbicide terbacil and its hydroxylated metabolites in or on alfalfa (hay and forage) at 5 ppm and blueberries at 0.1 ppm, and in milk fat at 0.5 ppm (reflecting 0.1 ppm in whole milk), and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 ppm, and (3) by editorially restructuring the section into an alphabetized columnar listing, to read as follows:

* * * * *

**§ 180.209 Terbacil; tolerances for residues.**

(a) Tolerances are established for residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) in or on the following raw agricultural commodities:

| Commodity: | *Parts per million* |
|---|---|
| Apples | 0.1 |
| Citrus fruits | .1 |
| Peaches | .1 |
| Pears | .1 |
| Peppermint hay | .1 |
| Spearmint hay | .1 |
| Sugarcane | .1 |

(b) Tolerances are established for combined residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) and its metabolites 3-*tert*-butyl - 5 -chloro-6-hydroxymethyluracil, 6-chloro-2, 3-dihydro-7-hydroxymethyl-3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one, and 6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one (calculated as terbacil) in or on raw agricultural commodities as follows:

| Commodity: | *Parts per million* |
|---|---|
| Alfalfa, forage | 5.0 |
| Alfalfa, hay | 5.0 |
| Blueberries | 0.1 |
| Cattle, fat | .1 |
| Cattle, mbyp | .1 |
| Cattle, meat | .1 |
| Goats, fat | .1 |
| Goats, mbyp | .1 |
| Goats, meat | .1 |
| Hogs, fat | .1 |
| Hogs, mbyp | .1 |
| Hogs, meat | .1 |
| Horses, fat | .1 |
| Horses, mbyp | .1 |
| Horses, meat | .1 |
| Milk, fat (=0.1 in whole milk) | .5 |
| Sheep, fat | .1 |
| Sheep, mbyp | .1 |
| Sheep, meat | .1 |

[FR Doc.76-16762 Filed 6-9-76;8:45 am]

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[FRL 559-5; PP3E1390/R94]

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

### 2,4-D

On April 15, 1976, the Environmental Protection Agency (EPA) proposed (41 FR 15874) that 40 CFR 180.142 be amended by establishing a tolerance for residues of the pesticide 2,4-dichlorophenoxyacetic acid (2,4-D) in or on the raw agricultural commodity fish at 1.0 part per million. This proposal was based on a petition (PP3E1390) submitted to the Agency by the Tennessee Valley Authority, 268-401 Building, Chattanooga TN 37401. Residues of 2,4-D would result from the application of its dimethylamine salt or its butoxyethanol ester in aquatic weed control programs conducted by the Tennessee Valley Authority in dams and reservoirs of the TVA system. The Tennessee Valley Authority also filed a petition (FAP 3H5032) for the establishment of a food additive regulation permitting the use of 2,4-D in potable water (41 FR 13984). A regulation to this effect also appears in today's FEDERAL REGISTER.

No comments or requests for an advisory committee were received by the Agency in response to this notice of proposed rulemaking. Therefore, the regulation is being established as proposed. The tolerance established by amending 40 CFR 180.142 will protect the public health.

Any person adversely affected by this regulation may, on or before July 12, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on June 10, 1976, 40 CFR 180.142 is amended as set forth below.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(c)])

Dated June 10, 1976.

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

Part 180, Subpart C, § 180.142 is amended by adding the new paragraph (i) to read as follows.

**§ 180.142 2,4-D; tolerances for residues.**

* * * * *

(i) A tolerance is established for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) for applications of its dimethylamine salt or its butoxyethanol ester for Eurasian Watermilfoil control in programs conducted by the Tennessee Valley Authority in dams and reservoirs of the TVA system at 1.0 part per million in or on the raw agricultural commodity fish.

* * * * *

[FR Doc.76-16759 Filed 6-9-76;8:45 am]

## Title 42—Public Health

## CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 122—HEALTH SYSTEMS AGENCIES

### Designation and Funding; Correction

In FR Doc. 76-8416 appearing at page 12812 in the FEDERAL REGISTER of March 26, 1976, the last sentence of paragraph (a) of § 122.209, appearing on page 12833, is corrected by adding the word, "sex", immediately following the words, "on the ground of", and immediately before the word, "age".

Dated: May 24, 1976.

JAMES F. DICKSON,
*Acting Assistant Secretary for Health.*

Approved: June 4, 1976.

MARJORIE LYNCH,
*Acting Secretary.*

[FR Doc.76-16841 Filed 6-9-76;8:45 am]

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## Title 43—Public Lands: Interior

## CHAPTER II—BUREAU OF LAND MANAGEMENT

[Circular No. 2397]

## PART 3200—GEOTHERMAL RESOURCES LEASING; GENERAL

### Bond Requirements

On March 1, 1976, there was published in the FEDERAL REGISTER (41 FR 8794) a notice of proposed rulemaking liberalizing the time requirement on a geothermal lessee to file a compliance bond.

Interested parties were given until March 29, 1976 to submit comments, suggestions, or objections on the proposed rulemaking. One comment was received. It recommended that in § 3206.1-1 the words "applicant" and "successful bidder" be replaced with the word "lessee." This change in wording has been made.

The rulemaking is hereby adopted amending 43 CFR Part 3200 as set forth below and shall become effective July 12, 1976.

CHRIS FARRAND,
*Deputy Assistant Secretary of the Interior.*

JUNE 3, 1976.

Subpart 3206 Lease Bonds is amended as follows:

1. Paragraph (b) of § 3206.1-1 is amended to read:

**§ 3206.1-1 Types of bonds.**

* * * * *

(b) Lease compliance bond. The lessee must furnish, prior to entry on the leased lands, and thereafter maintain a bond of not less than $10,000 conditioned on compliance with all the terms of the lease.

2. Section 3206.1-2 is amended to read:

§ 3206.1–2 Filing of bonds.

A single original copy of the bond on forms approved by the Director must be filed in the proper BLM office as required and directed by the authorized officer. For unit bond forms see 30 CFR Part 271.

[FR Doc.76–16821 Filed 6–9–76;8:45 am]

## Title 45—Public Welfare

### CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

### State Emergency Welfare Preparedness Federal Financial Participation

Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on March 15, 1976 (41 FR 10914). The purpose of the Notice was to transfer from Part V of the Handbook of Public Assistance Administration to the Code of Federal Regulations the provisions for Federal matching in State emergency welfare preparedness activities under the financial assistance titles. The basis of this amendment is the Department's belief that planning to assure continuity of public assistance during emergency situations is necessary for the proper and efficient operation of the State plan.

We received responses to the Notice from two State welfare agencies. One agency favored the proposal and the other felt that the 50 percent Federal matching rate was unrealistic, and suggested a 75 percent matching rate.

The law provides for a 50 percent matching rate for income maintenance functions under the financial assistance titles; therefore, only an amendment to legislation can alter the matching rate.

The regulations have been revised to clarify what State emergency welfare situations are.

Accordingly, the regulations as modified are hereby adopted and are set forth below:

Section 205.45(a) of Part 205, Chapter II, Title 45 of the Code of Federal Regulations is revised as set forth below:

§ 205.45 Federal financial participation in relation to State emergency welfare preparedness.

(a) Under title IV–A, Federal financial participation is available at the rate of 50 percent in expenditures for development and planning activities for emergency welfare preparedness. Such activities must relate to emergency welfare situations resulting from natural disasters, civil disorders, and enemy caused disasters, as prescribed in "Guidelines for the Preparation of State Emergency Welfare Services Plan" issued by Social and Rehabilitation Service, DHEW publication No. (SRS) 72–23004. These activities include:

(1) Safekeeping essential documents and records;

(2) Planning and developing emergency operating capability for providing food, lodging, clothing, and welfare registration and inquiry;

(3) Assuring that qualified individuals are responsible for the planning and operation of each welfare function essential under emergency conditions for care and services for public assistance recipients and potential recipients;

(4) Coordinating with other government and voluntary welfare agencies, and welfare-related business and professional organizations and associations, in developing emergency operating plans and attaining operational readiness;

(5) Preparing and maintaining data on kinds, numbers, and locations of essential welfare resources, including manpower;

(6) Developing ability to assess emergency welfare resources and determining requirements necessary to care for public assistance cases in the event of disaster or attack;

(7) Preparing plans for claiming and distributing the above resources;

(8) Developing mutual aid agreements at State and local levels with neighboring welfare organizations;

(9) Preparing and distributing written emergency operations plans for public assistance agencies and operating units;

(10) Participating in preparedness exercises for the purpose of testing plans and determining the role of public assistance programs in relation to the overall preparedness program; and

(11) Travel incidental to any of the above activities.

(b) Federal financial participation is available at 75 percent for providing training in emergency welfare preparedness for all staff and for volunteers except that, for Guam, Puerto Rico and the Virgin Islands under title IV–A, the rate is 60 percent.

(c) For Guam, Puerto Rico, and the Virgin Islands, this section is also applicable to public assistance under titles I, X, XIV, and XVI (AABD) of the Social Security Act.

(d) The cost of these activities must be allocated to all programs benefitted in accordance with Part 74, Subtitle A of Title 45 of the Code of Federal Regulations.

*Effective date:* This regulation is effective September 8, 1976, or earlier at State option.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance Maintenance Assistance (State Aid).)

Dated: May 12, 1976.

DON WORTMAN,
*Acting Administrator, Social and Rehabilitation Service.*

Approved: June 4, 1976.

MARJORIE LYNCH,
*Acting Secretary.*

[FR Doc.76–16844 Filed 6–9–76;8:45 am]

## Title 7—Agriculture

### CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. No. 76]

### PART 401—FEDERAL CROP INSURANCE

### Subpart—Regulations for the 1969 and Succeeding Crop Years

WHEAT ENDORSEMENT—APPLICABLE IN ALL STATES EXCEPT NORTH DAKOTA

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, § 401.126 of the Federal Crop Insurance Regulations contained in 7 CFR, Part 401, is amended, effective with the 1977 crop year in the following respects:

1. The heading of § 401.126 is changed to read as follows:

§ 401.126 The wheat endorsement (applicable in all States except North Dakota).

2. Section 7. *Cancellation and Termination for indebtedness dates.*

In the table at the end thereof, strike the following:

North Dakota:
Adams, Bowman, Golden Valley, and Slope Counties; June 30; Do.; (Sept. 15)
All other North Dakota counties; Dec. 31; Apr. 15

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.)

Except for the above nonsubstantive changes, the regulations for insuring wheat crops in all states except North Dakota remain the same. The foregoing amendment merely changes the heading and deletes any reference to North Dakota from the table at the end thereof.

This amendment was made necessary since the Board of Directors approved a separate wheat endorsement for insuring wheat crops in North Dakota which differs from the wheat endorsement under which wheat crop insurance is offered in all other states.

The rules herein do not fall within the criteria set forth by the Department of Agriculture's interim guidelines relating to the Inflationary Impact Statement required by the Office of Management and Budget Circular A–107.

Since the changes proposed above are not substantive in nature, the Board of Directors found that it would be unnecessary and contrary to the public interest to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553 (b) and (c), as directed by the Secretary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to its adoption.

Accordingly, said amendment was adopted by the Board of Directors on May 12, 1976.

Approved on June 7, 1976.

[SEAL] PETER F. COLE,
*Secretary, Federal Crop Insurance Corporation.*

[FR Doc.76-16876 Filed 6-9-76;8:45 am]

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[Amendment No. 77]

## PART 401—FEDERAL CROP INSURANCE

### Subpart—Regulations for the 1969 and Succeeding Crop Years

WHEAT ENDORSEMENT—APPLICABLE ONLY IN NORTH DAKOTA

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1977 crop year in the following respect:

1. The following section is added:

**§ 401.153 The wheat endorsement (applicable only in North Dakota).**

The provisions of this endorsement, which shall be applicable for the 1977 and succeeding crop years in those counties where the actuarial table so provides, are as follows:

1. *Insured crop.* The crop insured shall be wheat seeded for harvest as grain, as determined by the Corporation. Insurance shall not attach on acreage on which it is determined by the Corporation that wheat was seeded with flax or other small grains, vetch, Austrian winter peas, or dry edible peas. Insurance shall not attach to any acreage planted for the development of hybrid seed.

2. *Annual premium.* (a) There will be a reduction in the annual wheat premium for each insurance unit of 4 percent for the first full 200 acres of insured wheat acreage on the insurance unit (hereinafter called "unit") and an additional 2 percent reduction for each additional full 100 acres: *Provided, however,* That the total reduction shall not exceed 20 percent.

(b) Whether or not the insured is eligible for the reduction provided in section 6(b) of the policy, the insured's annual wheat premium may be reduced in lieu thereof for any year by not to exceed 50 percent if it is determined by the Corporation that the accumulated balance (expressed in bushels) of premiums over indemnities on consecutively insured wheat crops preceding the current crop year equals or exceeds his total production guarantee based on the amount per acre shown on the county actuarial table (hereinafter called "actuarial table").

3. *Production guarantee.* The production guarantee per acre shown on the actuarial table shall be increased by 1.5 bushels for any harvested acreage on which the amount harvested is 1.5 or more bushels per acre.

4. *Insurance period.* Insurance on any spring-seeded insurable wheat acreage shall attach at the time the wheat is seeded. Insurance on any fall-seeded insurable wheat acreage shall attach on the April 15 following seeding: *Provided,* That there is an adequate stand of wheat on such acreage on this date to produce a normal crop for the area as determined by the Corporation. Insurance shall cease upon threshing or removal from the field, whichever occurs first, but in no event shall insurance remain in effect later than October 31 of the calendar year in which the wheat is normally harvested.

5. *Claims for loss.* (a) Any claim for loss shall be submitted to the Corporation, on a form prescribed by the Corporation, not later than 60 days after the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It shall be a condition precedent to the payment of any loss that the insured establish the production of the insured crop on the unit and that such loss has been directly caused by one or more of the hazards insured against during the insurance period for the crop year for which the loss is claimed, and furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of wheat on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) substracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result in (3) by the insured interest: *Provided,* That if for the unit the insured fails to report all of his insurable acreage or interest the amount of loss shall be determined with respect to all of his insurable acreage and interest, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 3 of the policy, the amount of loss shall be reduced proportionately.

The total production to be counted for a unit shall be determined by the Corporation and, subject to the provisions hereinafter, shall include all threshed production and any appraisals made by the Corporation for unthreshed, unharvested, or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the total production to be counted on any acreage of wheat (1) which, with the consent of the Corporation, is seeded in the current crop year, before harvest becomes general, to any other crop insurable in the county for the current crop year under the regulations of the Corporation, shall be 50 percent of the production guarantee for such acreage or the appraised production, whichever is greater; (2) which is unharvested or from which the production harvested is less than 1.5 bushels per acre shall be the appraised production and the harvested production in excess of 1.5 bushels per acre, except as to the acreage referred to in the following items (3) and (4); (3) which is abandoned or put to another use without prior written consent of the Corporation shall be the production guarantee provided for such acreage; or (4) which is damaged solely by an uninsured cause shall be not less than the production guarantee provided for such acreage.

(d) The total production to be counted shall include any harvested production from acreage initially seeded for purposes other than for harvest as grain as determined by the Corporation.

(e) In determining total production, volunteer small grains, volunteer Austrian winter peas, volunteer dry edible peas, and volunteer vetch growing with the seeded wheat crop and small grains seeded in the growing wheat crop on acreage on which the Corporation has not given its consent to be put to another use, shall be counted as wheat on a weight basis.

(f) Notwithstanding paragraph (c) of this section for determining production to be counted, the production to be counted of any threshed wheat which does not grade No. 3 or better, and, in addition, does not grade No. 5 or better on the basis of test weight only but otherwise grades No. 3 or better (determined in accordance with the Official Grain Standards of the United States) because of poor quality due to insurable causes occurring within the insurance period, and would not meet these grade requirements if properly handled, shall be adjusted by (1) dividing the value per bushel of the damaged wheat as determined by the Corporation, by the market price per bushel at the local market at the time the loss is adjusted for wheat grading No. 2, or if the damaged wheat has been sold, by dividing the value of the damaged wheat by the No. 2 price on the date of sale at the local market, and (2) by multiplying the result thus obtained by the number of bushels of such damaged wheat.

If the threshed wheat does grade No. 5 or better on the basis of test weight only, and otherwise grades No. 3 or better, and it is determined that the production contains a moisture content of 15 percent or more, such production shall be reduced 1.2 percent for each full percentage point in excess of 14 percent.

6. *Meaning of terms.* For purposes of insurance on wheat the term:

(a) "Harvest" means the mechanical severance from the land of matured wheat for threshing.

7. *Cancellation and termination for indebtedness dates.* For each year of the contract the cancellation date is the December 31 and the termination date for indebtedness is the April 15 immediately preceding the beginning of the crop year for which the cancellation or termination is to become effective.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.)

The foregoing amendment will establish regulations for insuring wheat crops only in North Dakota effective with the 1977 crop year, combining the offer of protection on spring-seeded and fall-seeded wheat. The principle differences from the standard wheat crop insurance endorsement applicable in all states except North Dakota are (a) the provision that insurance shall not attach on any acreage planted for the development of hybrid seed, (b) the provisions for the attachment of insurance on the two types of wheat grown in North Dakota, spring-seeded and fall-seeded, found in section 4 which will serve to eliminate any adverse selectivity, and (c) define the cancellation and the termination for indebtedness dates to accommodate both crops.

The rules herein do not fall within the criteria set forth in the Department of Agriculture's interim guidelines relating to the Inflationary Impact Statement required by the Office of Management and Budget Circular A-107.

It is desirable that the above amendment be made effective with the 1977 crop year, and notice of changes must be given to present insureds by June 15, 1976. It would therefore be impossible to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553 (b) and (c) prior to the adoption of this amendment and to comply with the

contractual provisions with respect to filing such changes in time to be effective for the 1977 crop year.

Under the circumstances, the Board of Directors found that it would be impracticable and contrary to the public interest to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553 (b) and (c), as directed by the Secretary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to its adoption.

Accordingly, said amendment was adopted by the Board of Directors on May 12, 1976.

Approved on June 7, 1976.

[SEAL] PETER F. COLE,
*Secretary,*
*Federal Crop Insurance Corporation.*

[FR Doc.76-16877 Filed 6-9-76;8:45 am]

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[Amendment No. 78]

## PART 401—FEDERAL CROP INSURANCE

### Subpart—Regulations for the 1969 and Succeeding Crop Years

APPLICATION

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, § 401.103 of the Federal Crop Insurance Regulations, contained in 7 CFR Part 401, is amended, effective beginning with the 1977 crop year in the following respects:

§ 401.103 [Amended]

1. Section 401.103(a)(2), in the fifth and sixth lines thereof, is amended by striking out the words "North Dakota and" immediately following the word "in", and immediately before the words "South Dakota".

2. The portion of the table relating to "Closing Dates" following paragraph (a) of § 401.103 of this chapter under the heading "Wheat" is amended by striking out the portion reading as follows:

"North Dakota:
Adams, Bowman, Golden Valley, and Slope Counties; Do.; (Sept. 15)
All other North Dakota counties; Apr. 15",

and inserting in lieu thereof, the following:

"North Dakota; Apr. 15.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.)

The proposed amendment will make no substantive changes in the regulations except to make the closing date for all North Dakota counties April 15.

The rules herein do not fall within the criteria set forth by the Department of Agriculture's interim guidelines relating to the Inflationary Impact Statement required by the Office of Management and Budget Circular A-107.

Since the changes proposed above are not substantive in nature, the Board of Directors found that it would be unnecessary and contrary to the public interest to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553 (b) and (c), as directed by the Secretary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to its adoption.

Accordingly, said amendment was adopted by the Board of Directors on May 12, 1976.

Approved on June 7, 1976.

[SEAL] PETER F. COLE,
*Secretary,*
*Secretary, Federal Crop Insurance Corporation.*

[FR Doc.76-16878 Filed 6-9-76;8:45 am]

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## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Regulation 334]

## PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period June 11-17, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.684 Navel Orange Regulation 334.

(a) *Findings.* (1) Pursuant to 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, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges continues reasonably firm. Prices f.o.b. averaged $3.07 a carton on a reported sales volume of 636 carlots last week, compared with an average f.o.b. price of $3.20 per carton and sales of 991 carlots a week earlier. Track and rolling supplies at 291 cars were down 112 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 8, 1976.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period June 11, 1976, through June 17, 1976, are hereby fixed as follows:

(i) District 1: 500,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: June 9, 1976.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.76-17144 Filed 6-9-76;11:45 am]

## CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[FmHA Instruction 441.1]

### PART 1831—OPERATING LOANS

### Subpart A—Operating Loan Policies and Authorizations

MISCELLANEOUS AMENDMENTS

Section 1831.12 of Subpart A of Part 1831, Title 7, Code of Federal Regulations (37 FR 14858) is amended. Paragraphs (a)(2) and (6)(ii) are revised to include contract rights into the broadened definition of accounts; paragraph (a)(9) is amended by adding a sentence to point out the possible need for State Supplements to further explain the taking of a security interest in fixtures since the Uniform Commercial Code (UCC) provisions regarding fixtures was altered. These provisions are being published without notice of proposed rulemaking since Farmers Home Administration is merely allowing for compliance with the 1972 amendments to the UCC, and providing for these regulations to be suitable to those States which have adopted the Model UCC. For that reason, public notice and procedure thereon are unnecessary. Accordingly, the last sentence in § 1831.12(a)(2) and the last sentence in paragraph (a)(6)(ii) are revised; and paragraph (a)(9) is amended by adding a sentence to the end of this paragraph.

As revised and added, the last sentences in § 1831.12 (a)(2) and (6)(ii), and paragraph (a)(9) reads as follows:

**§ 1831.12 Security policies.**

(a) * * *

(2) *Crops grown under contract when title to the crop is held by the contractor.* * * * In UCC States, if an assignment on the crop income is taken, such assignment will constitute a security agreement on such income and the share lease, share agreement, or contract will be described specifically, or as "Contract Rights" or as "Contracts Rights in Crops" (or "Accounts" or "Accounts in Crops", if required by a State Supplement), and so forth, in paragraph 1(b) of the financing statement.

* * * * *

(6) * * *

(ii) * * * In UCC States, if an assignment on the livestock income is taken, such assignment will constitute a security agreement on such income and the share lease, share agreement, or contract will be described specifically, or as "Contract Rights" or as "Contract Rights in Livestock" (or "Accounts" or "Accounts in Livestock," if required by a State Supplement), and so forth, in paragraph 1 (b) of the financing statement.

* * * * *

(9) *Real estate.* * * * When determined necessary by the State Director and OGC, a State Supplement will be issued to further explain the taking of a security interest in fixtures.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; Sec. 10 P.L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

*Effective date.* These amendments are effective on June 10, 1976.

Dated: May 28, 1976.

FRANK B. ELLIOTT,
*Administrator, Farmers Home Administration.*

[FR Doc.76-16880 Filed 6-9-76;8:45 am]

[FmHA Instruction 441.3]

### PART 1831—OPERATING LOANS

### Subpart B—Operating Loan Processing

MISCELLANEOUS AMENDMENT

Section 1831.32(h) of Subpart B of Part 1831, Title 7, Code of Federal Regulations (37 FR 14858; as amended at 38 FR 14155) is amended to change the word "loan" to "advances planned." It is unnecessary to publish notice of proposed rulemaking in the FEDERAL REGISTER inasmuch as the change is administrative in nature and does not affect the public's interest.

The fourth sentence of § 1831.32(h) as revised, reads as follows:

**§ 1831.32 Loan forms and routines.**

* * * * *

(h) *Form FmHA 444–1, "Promissory Note."* * * * The first installment may not be less than the amount equal to interest on the advances planned from the estimated date of closing to January 1 of the next calendar year. * * *

* * * * *

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

*Effective date.* These amendments are effective June 10, 1976.

Dated: May 28, 1976.

FRANK B. ELLIOTT,
*Administrator, Farmers Home Administration.*

[FR Doc.76-16881 Filed 6-9-76;8:45 am]

[FmHA Instruction 441.2]

### PART 1832—EMERGENCY LOANS

### Subpart A—Emergency Loan Policies, Procedures, and Authorizations

MISCELLANEOUS REVISIONS

Various sections of Subpart A of Part 1832, Title 7, Code of Federal Regulations (40 FR 42321) are revised. Some of these revisions, including changes in Appendixes I and III, are editorial in nature, the other revisions are matters of internal agency procedures.

Therefore, it is unnecessary to publish notice of proposed rulemaking in the FEDERAL REGISTER.

As amended, various sections of Subpart A of Part 1832 and changes in Appendixes I and III read as follows:

1. In § 1832.3(x), the last two sentences are revised to change "USDA State Emergency Memorandum No. 54" to "USDA Emergency Operations Handbook (EOH);" Paragraph (z)(7) is added to this section to include "EOH" in the list of abbreviations, and paragraphs (z)(7) through (z)(19) are redesignated as (z)(8) through (z)(20) without change.

As amended, § 1832.3 (x) and (z) read as follows:

**§ 1832.3 Definitions.**

* * * * *

(x) *USDA Emergency Board.* * * * The SEB's and the CEB's natural disaster responsibilities are contained in "USDA EMERGENCY OPERATIONS HANDBOOK (EOH)." A copy of the EOH is available for inspection at any State Office or County Office of the FmHA or ASCS, and in the National Office of FmHA at 14th and Independence Avenue SW., Washington, DC 20250.

* * * * *

(z) *Abbreviations.* A list of abbreviations used in this regulation and their meaning are listed below.

* * * * *

(7) EOH—USDA Emergency Operations Handbook.

(8) FDAA—Federal Disaster Assistance Administration.

* * * * *

(20) United States Department of Agriculture.

* * * * *

2. In § 1832.9(b)(1) the first sentence is revised by deleting reference to "USDA State Emergency Memorandum No. 54;" paragraph (b)(2) is revised by changing the parenthetical reference to read "(in accordance with paragraphs 68 and 70 of the EOH);" paragraph (b)(3) is amended by adding subdivision "(iii) SEB members." As amended § 1832.9(b)(1), (2) and (3) read as follows:

**§ 1832.9 Reporting natural disasters.**

* * * * *

(b) *Action.* * * *

(1) The County Supervisor will report immediately to the CEB the occurrence of any natural disaster causing substantial property loss, damage, or injury, including severe production losses in his County Office area, regardless of whether EM loans will be needed.* * *

(2) The CEB will report the natural disaster (in accordance with paragraphs 68 and 70 of the EOH) to:

(3) * * *

(iii) SEB members.

* * * * *

3. Section 1832.10 is amended as follows:

a. Paragraph (b)(3) is revised to provide that the State Director will take the required actions upon notification from

the National Office; paragraph (b) (3) (i) and (b) (4) are revised to change reference to "USDA Emergency Memorandum No. 54" to "EOH."

b. A new paragraph (b) (5) is added to require County Supervisors to provide additional information as an attachment to Damage Assessment Reports (DAR).

c. Former paragraphs (b) (5) through (b) (8) are redesignated (b) (6) through (b) (9) and revised in part as follows:

i. Paragraph (b) (6) is revised to change "and recommendation" at the end of the first sentence and insert "or nonconeurrence;" at the end of the last sentence, "with the SEB recommendation" is deleted.

ii. Paragraph (b) (7) is revised to conform with changes made in processing Damaged Assessment Reports; paragraphs (b) (7) (i) and (iii) are revised for editorial purposes.

iii. Paragraph (b) (9) is revised to delete "Secretarial Disaster Designation Number."

iv. Paragraph (c) is revised to delete "and the CEB" from the second sentence; paragraph (c) (1) is revised to delete "State Director Authorization Number" from the first sentence; paragraph (c) (3) is revised to provide for the attachment to the DAR to be sent to the National Office and to change "CEB" to "an Indian Tribal Council."

As amended, § 1832.10 (b) and (c) read as follows:

**§ 1832.10 Making EM loans available.**

* * * * *

(b) *Designation by the Secretary of Agriculture.*

* * * * *

(3) Upon receiving his copy of the Governor's request or notification from the National Office the State Director will immediately take the following actions:

(i) Advise the SEB Chairman that a DAR is needed in accordance with the EOH for the requested county or counties. The State Director will request the SEB Chairman, to ask the CEB Chairman to invite the county governing body to participate in the CEB meeting. The SEB Chairman will ask the CEB Chairman to have his DAR in by a specific date.

* * * * *

(4) The CEB meets and prepares the DAR in accordance with the EOH. The county governing body of its appropriate representatives will be encouraged to attend the CEB meeting. The completed DAR will be sent to the SEB Chairman.

(5) When a DAR has been prepared by CEB and sent to the CEB, the County Supervisor will also provide the following additional information, to the State Director, as agreed upon by the CEB:

Attachment to DAR Dated: _____ 19____
State: _____ County: _____

Number of farms with production loss:

| | |
|---|---|
| 100 pct loss | ------ |
| 90 to 99 pct loss | ------ |
| 80 to 89 pct loss | ------ |
| 70 to 79 pct loss | ------ |
| 60 to 69 pct loss | ------ |
| 50 to 59 pct loss | ------ |
| 40 to 49 pct loss | ------ |
| 30 to 39 pct loss | ------ |
| 20 to 29 pct loss | ------ |
| Less than 20 pct loss | ------ |

Number of farms with physical loss:

| | |
|---|---|
| Major loss | ------ |
| Minor loss | ------ |

_____
County Supervisor

(6) The SEB Chairman shall edit each county DAR as necessary in cooperation with FmHA and other board members as appropriate and indicate the SEB concurrence or non-concurrence. The SEB Chairman will provide the FmHA State Director a copy of the completed DAR.

(7) When the State Director receives a copy of te comhpleted DAR from the SEB Chairman, he will attach the additional information received from the County Supervisor in accordance with paragraph (b) (5) of this section, review each DAR with attachment and take one of the following actions:

(i) Refer the DAR to the National Office, Attention: Director, Emergency Loan Divisions, by letter, recommending the county for designation and providing his comments. These comments should indicate his views on the entire situation as it relates to the need for EM loans as a direct result of the natural disaster. If he has additional supporting information not contained in the DAR, he should present this information.

* * * * *

(iii) If EM loans are needed and not more than 25 farmers in a county have been affected, the State Director can authorize EM loans in accordance with paragraph (c) of this section.

* * * * *

(9) When a county is designated by the Secretary of Agriculture, the National Office will notify the State Director and the Director of the Finance Office. The notification will specify the type of disaster; the county or counties designated; the termination dates for receiving EM loan applications; the incidence period for the disaster; the SDDN (Example: A205); and the date loan activity reporting will commence. The Governor of the state and each Senator and Congressman representing the area involved will be notified simultaneously of the action taken.

* * * * *

(c) *State Director Authorization.* If the State Director finds in any county that the requirements of paragraph (b) (1) (i), (ii), and (iii) of this section are met, except that 25 or less farmers have been substantially affected by the natural disaster, EM loans may be authorized by the State Director. The authority to make EM loans available by the State Director will only be exercised after the Governor, the county governi g body or its authorized representative, or an Indian Tribal Council has made a formal written request for such action to the State Director and he has given prior notice to the National Office by telephone. This authorization may not be used to make EM loans available immediately in anticipation of a later designation by the Secretary of Agriculture based on the same natural disaster.

(1) The SDAN (Example: N186), termination dates for receiving EM loan applications, the date loan reporting will commence, and the incidence period for this disaster will be established by the National Office when the prior telephone notice is given.

* * * * *

(3) The State Director will send to the National Office a copy of his authorization letter written to the County Supervisor; the DAR and attachment; and the formal written request from the Governor, the county governing body or its authorized representative, or an Indian Tribal Council.

* * * * *

4. Section 1832.21 (a) and (b) are revised as follows: Paragraph (a) is revised to indicate that the prevailing market rates of interest are shown in Subpart A, Part 1810 of this Chapter, and that these rates are established by the Secretary of Agriculture, on July 1, and January 1 of each year; Paragraph (b) is revised to delete the last two sentences which are now added to Paragraph (a),

**§ 1832.21 Rates and terms.**

(a) *Interest rates.* The interest rates for EM loans for actual losses will be 5 percent. The interest rate for EM loans made under § 1832.20 (b) and (c) (2) (Subtitle B purposes), and made under § 1823.20(c) (1) (Subtitle A purposes), will be at an interest rate prevailing in the private market for similar loans, as determined by the Secretary of Agriculture. The prevailing market rates are specified in Subpart A of Part 1810 of this chapter. These interest rates, for other than actual losses, will be reviewed in June and December of each year with new interest rates established on July 1 and January 1 of each year by the Secretary. Interest on the initial advance will accrue from the date of the promissory note. Interest on other advances will accrue from the date of the loan check for each such advance.

(b) *Terms of loans.* EM loans will be scheduled for repayment in annual installments as set forth below, consistent with the applicant's reasonable ability to pay. This will be determined by his operations as reflected in his farm and home plan.

* * * * *

5. Appendix I is amended as follows: Paragraph III, A, and C, are revised to

change "USDA State Emergency Memorandum No. 54" to "USDA Emergency Operations Handbook (EOH)," wherever it appears; Paragraph III, D is revised for editorial purposes.

As revised, paragraphs III A, C, and D read as follows:

APPENDIX I

RELATIONSHIP BETWEEN FARMERS HOME ADMINISTRATION (FMHA) AND THE FEDERAL DISASTER ASSISTANCE ADMINISTRATION (FDAA)

* * * * *

III * * *

A. When a request is made by FDAA for information on losses and damages caused by a natural disaster, FDAA will be advised to contact the State Emergency Board (SEB) Chairman. USDA Emergency Handbook (EOH) provides that the SEB and County Emergency Board (CEB) will prepare the Department's "Damage Assessment Report." State Directors and County Supervisors should cooperate with SEB and CEB Chairmen in preparing the reports.

* * * * *

C. If a request is made by FDAA for FmHA employees to man FDAA's "Disaster Assistance Centers," it will be advised to contact the SEB Chairman. The EOH provides that the SEB Chairman shall select qualified U.S. Department of Agriculture (USDA) personnel to represent USDA at each center. State Directors should cooperate with the SEB Chairman in providing personnel for these Centers.

D. If FDAA requests State Directors for disaster lending activity reports, it will be advised that reports cannot be made more often than monthly as established by applicable FmHA regulations (FmHA Instruction 492.7). However, State Directors, as authorized by applicable FmHA regulations (paragraph III B 4 of FmHA Instruction 492.7), may authorize County Supervisors to report on Form FmHA 492-7, "Report of EM Loan Applications," more frequently than monthly, but not more often than weekly, providing they need such information in administering the EM loan program.

6. Appendix III is revised by adding a note at the end of this Appendix to indicate that the USDA Emergency Memorandum No. 54 has been replaced by the USDA Emergency Operations Handbook, as follows:

APPENDIX III

MEMORANDUM OF UNDERSTANDING AND COORDINATION BETWEEN THE AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (ASCS) AND THE FARMERS HOME ADMINISTRATION (FMHA) PERTAINING TO DISASTER TYPE ASSISTANCE

* * * * *

NOTE.—USDA Emergency Memorandum No. 54 which is referred to in paragraph II B of this Appendix has been replaced by the USDA Emergency Operations Handbook (EOH).

(7 U.S.C. 1989, 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)

*Effective date.* This document shall be effective on June 10, 1976.

Dated: May 21, 1976.

FRANK B. ELLIOTT,
*Administrator,*
*Farmers Home Administration.*

[FR Doc.76-16882 Filed 6-9-76;8:45 am]

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

[FmHA Instruction 462.1]

## PART 1871—CHATTEL SECURITY

### Subpart A—Servicing Chattel Security

MISCELLANEOUS AMENDMENT

Section 1871.4 of Subpart A of Part 1871, Title 7, Code of Federal Regulations (36 FR 1110) is amended. Paragraph (f) (1) (ii) is amended by revising the second sentence to indicate when to take an additional Security Agreement in order to comply with the 1972 version of the UCC. This amendment will, therefore, serve to point out the possible need to issue State Supplements. This amendment is hereby published without notice of proposed rulemaking because it merely recognizes change in State laws in those States which have adopted the Model UCC. For that reason, public notice and procedure thereon are unnecessary.

In § 1871.4, the second sentence in paragraph (f) (1) (ii) is revised to read as follows:

**§ 1871.4 Keeping security instruments current and taking additional security.**

* * * * *

(f) * * *

(1) * * *

(ii) *Security Agreements.* * * * A State Supplement will be issued when considered necessary by the State Director and OGC to further explain the situations requiring the taking of an additional Security Agreement. * * *

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; Sec. 10 P.L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

*Effective date.* This amendment is effective on June 10, 1976.

Dated: May 28, 1976.

FRANK B. ELLIOTT,
*Administrator,*
*Farmers Home Administration.*

[FR Doc.76-16883 Filed 6-9-76;8:45 am]

## Title 15—Commerce and Foreign Trade

## CHAPTER VIII—BUREAU OF ECONOMIC ANALYSIS, U.S. DEPARTMENT OF COMMERCE

## PART 805—PRELIMINARY SURVEY OF INTERNATIONAL LEASING TRANSACTIONS IN 1975

### Final Adoption

On April 20, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 16559). The public was given the opportunity to submit written comments, data, views, arguments, objections, or suggestions pertaining to the proposed survey regulations prior to their publication in final form. Comments were also solicited from interested parties by the Office of Management and Budget in July, 1975, pursuant to its authority under the Federal Reports Act (44 U.S.C. 3501 et seq.). All suggestions and comments received have been carefully considered and taken into account in the survey regulations published herein. The changes resulting from public suggestions and comments in these regulations are of a clarifying nature and include the following: (1) The filing date was extended to August 31, 1976. (2) The specification of the exemption from filing BE-811 was clarified to exempt a United States person otherwise required to report, if, at both the beginning and end of the reporting period, the sum of the aggregated original cost of the tangible property leased to unaffiliated foreigners and from unaffiliated foreigners worldwide was less than $250,000. (3) The rules are adopted as final permanent regulations.

The survey will be taken pursuant to the authority of the Bretton Woods Agreements Act (22 U.S.C. 286f) and Executive Order 10033. The preliminary survey was approved by the National Advisory Council on International Monetary and Financial Policies on February 24, 1976, and by the Office of Management and Budget on March 16, 1976.

The following forms are to be used in the survey: BE-580 (Leasing of Tangible Property to or from Foreign Affiliate in 1975), BE-608 (Leasing of Tangible Property to or from Foreign Parent in 1975), BE-810 (Leasing of Reusable Cargo Containers to or from Foreign Residents in 1975), BE-811 (Leasing of Tangible Property to or from Unaffiliated Foreigners in 1975). The survey will collect data on a country-by-country basis and will measure the book value of property being leased, the change in book value, and the size of lease payments.

The preliminary survey will collect data for the year 1975. The survey is designed to measure the extent of international leasing transactions (excluding real estate) by direct investors, leasing companies, vessel owners, offshore drilling and service firms, banks and other financial institutions, and other persons, and their effect on the U.S. balance of payments. It also will provide the information necessary to determine whether any leasing transactions are being covered in existing reporting systems, although not separately identified as such, and whether separate data series should be constructed and included as a separate entry in the balance of payments accounts. Thus, if the results of the preliminary survey reflect a need to continue gathering data in this area, these regulations will be appropriately revised.

This part becomes effective on June 10, 1976.

Accordingly, Part 805 is promulgated as set forth below.

Sec.

805.1 Who must report.
805.2 General definitions.
805.3 Number of copies.
805.4 Estimates.
805.5 Filing date.
805.6 Special filing procedures.

Sec.
805.7 Where to send reports.
805.8 Confidentiality.
805.9 Penalty for refusal to file.
805.10 Information regarding preparation of reports.

AUTHORITY: 22 U.S.C. 286f and Executive Order 10033.

### § 805.1 Who must report.

(a) *United States person who engaged in leasing transactions with its foreign affiliates.* One Form BE-580 (Leasing of Tangible Property to or from Foreign Affiliate in 1975) must be filed by a U.S. person for each foreign affiliate for which it filed a Form BE-577, BE-577A, BE-578, BE-578B, or BE-578I in 1975, and with which affiliate it engaged in lease transactions. Foreign affiliates should be consolidated as reported on Form BE-577, BE-578, BE-578B, or BE-578I for 1975.

(b) *United States person who engaged in leasing transactions with its foreign parent or a foreign affiliate of its foreign parent.* One Form BE-608 (Leasing of Tangible Property to or from Foreign Parent in 1975) must be filed by a U.S. person for each foreign parent or foreign affiliate of a foreign parent for which the U.S. person filed a Form BE-605, BE-606, BE-606B, or BE-606I in 1975, and with which the U.S. person had leasing transactions. The same consolidation of U.S. business enterprises should be used on this form as used on the corresponding BE-605, BE-606, BE-606B, or BE-606I for 1975.

(c) *United States person, not a carrier, who leases or who manufactures and sells reusable cargo containers to foreigners.* The above person must file a report on Form BE-810 (Leasing of Reusable Cargo Containers to or from Foreign Residents in 1975). A U.S. person otherwise required to report is exempt from filing a report on Form BE-810 if the sum of both lease receipts and payments for the reporting period is less than $50,000.

(d) *United States person who engaged in leasing transactions with unaffiliated foreigners.* The above must file a report on Form BE-811 (Leasing of Tangible Property to or from Unaffiliated Foreigners in 1975). One Form BE-811 is to be filed for each country with which the U.S. person conducted leasing transactions. A consolidated report may be filed covering all transactions with more than one unaffiliated foreigner within a country. A United States person otherwise required to report is exempt from filing Form BE-811 if, at both the beginning and end of the reporting period, the sum of the aggregated original cost of the tangible property leased to unaffiliated foreigners and the tangible property leased from unaffiliated foreigners worldwide was less than $250,000.

(e) United States carriers leasing ships or reusable cargo containers to or from foreigners should report on BE-30 (Ocean Freight Revenue and Expenses—United States Carriers) or BE-37 (American Airline Operators Foreign Revenues and Expenses).

### § 805.2 General definitions.

For the purpose of these reports, the following definitions are prescribed:

(a) *United States.* United States shall mean the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(b) *Foreign.* Foreign shall mean that which is situated outside the United States: belonging to, characteristic of, or under the jurisdiction of a country or political entity other than the United States.

(c) *U.S. Person.* A U.S. person shall mean an individual, a government, a corporation, a branch, a partnership, an associated group, a joint stock company, a trust, an estate, or other entity under the jurisdiction of the United States and residing in the United States, including its territories and possessions.

(d) *Associated Group.* An associated group shall mean two or more U.S. persons who, by the appearance of their actions, by agreement, or by understanding, exercise their voting privileges in a concerted manner to influence the management of a foreign business enterprise. The following are deemed to be associated groups:

(1) Members of the same family.

(2) A business enterprise and one or more of its officers or directors.

(3) Members of a syndicate or joint venture.

(4) A corporation and its domestic subsidiaries.

(e) *Reporter.* A U.S. reporter shall mean a U.S. person from whom a report is required. If the U.S. person is an enterprise that is not identifiable by name, the report may be filed on behalf of the U.S. person by an agent or representative or by the beneficial owner.

(f) *Foreign Person.* Foreign person shall mean any person, including U.S. persons, residing outside the United States. A person shall include an individual, partnership, association, corporation, estate, trust, or other entity created or organized under the laws of a foreign country.

(g) *Foreign Parent.* A foreign parent shall mean any foreign person directly and/or indirectly owning 10 percent or more of the voting securities of a U.S. corporation or of other ownership equities in other types of U.S. organizations. In some cases there may be more than one parent. (If the amounts being reported are for transactions or accounts of the U.S. reporter with a person who is not the equity owner but who is acting for the equity owner—for example, with the home office of a bank or an insurance company which itself is not the equity owner—that person shall be considered the foreign parent for purposes of the report.)

(h) *Foreign Affiliate.* A foreign affiliate shall mean any incorporated foreign business enterprise in which a U.S. person owns, directly and/or indirectly, 10 percent or more of the voting securities, or any unincorporated foreign business enterprise in which the U.S. person owns, directly and/or indirectly, an equivalent interest.

(i) *Affiliated Foreigner.* An affiliated foreigner shall mean either a foreign affiliate of a U.S. person or a foreign parent (including foreign affiliates of the foreign parent) of a U.S. person.

(j) *Unaffiliated Foreigner.* An unaffiliated foreigner shall mean any foreigner who is neither a foreign affiliate of a U.S. person nor a foreign parent (including foreign affiliates of the foreign parent) of a U.S. person.

(k) *Carrier.* Carrier shall mean the owner of a vessel or the operator of a chartered or subchartered vessel, who enters into and carries out any form of transportation contract with the shippers of merchandise.

(l) *Lease.* Lease shall mean a contract by which one person gives another person the use and possession of tangible property (other than real estate) for a specified time in return for agreed-upon payments.

(1) *Financial Lease* shall mean a long-term lease under which a sale of the property is recognized at the inception of the lease (these may be shown as lease contracts or accounts receivable on the lessor's books). Total lease payments made pursuant to the lease agreement consist of payments of principal (return of capital), which relate to the value of the leased tangible property, and interest.

(2) *Operational Lease* shall mean a lease with a term which is less than the useful life of the property. Total lease payments pursuant to the lease agreement may be viewed as consisting of depreciation (return of capital) of the leased tangible property and net rent.

NOTE: In determining whether a lease is financial or operational, reporters should use the same criteria applied in recording the lease on their books.

(m) *Net Book Value.* Net Book Value shall mean, under an operational lease, the original cost less the accumulated depreciation of the leased tangible property, or, under a financial lease, the amount of principal payments remaining due at any given time for the leased tangible property under the lease contract.

### § 805.3 Number of copies.

A single original copy of each form shall be filed with the Bureau of Economic Analysis.

### § 805.4 Estimates.

Every question on a form which a reporter is required to file must be answered. If the information is not available as specified on the form, a reasonable estimate should be entered and labeled as such. If there is no basis for such an estimate, state, "unknown" with an appropriate explanation.

### § 805.5 Filing date.

Forms shall be filed on or before August 31, 1976, or no later than 60 days after publication of final regulations in the FEDERAL REGISTER, whichever date is later. If additional time is required

for completion, extensions may be arranged through written application to the Balance of Payments Division BE-58(L), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230.

**§ 805.6 Special filing procedures.**

When data specified on a report form are not available to the reporter, or when consolidation beyond that specifically provided for above would reduce reporting burden without loss of significant information, the reporter may apply in writing to the Balance of Payments Division BE-58(L), Bureau of Economic Analysis, Department of Commerce, Washington, D.C. 20230, for consideration of the specific problem.

**§ 805.7 Where to send reports.**

All reports shall be sent to the Balance of Payments Division BE-58(L), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230.

**§ 805.8 Confidentiality.**

(a) All reports will be held in strict confidence pursuant to the provisions of the Bretton Woods Agreements Act (22 U.S.C. 286f).

(b) The public's attention is invited to 22 U.S.C. 286f(c) which provides for a fine and/or imprisonment for the unlawful disclosure by an officer or employee of the Government of any information obtained under the Bretton Woods Agreements Act.

**§ 805.9 Penalty for refusal to file.**

The public's attention is invited to 22 U.S.C. 286f(b) which provides subpoena power to the Government to compel the production of data and enforcement of that power through contempt proceedings in a U.S. district court.

**§ 805.10 Information regarding preparation of reports.**

Anyone desiring information concerning these reports, or copies of forms, may apply directly to the Bureau of Economic Analysis BE-58(L) U.S. Department of Commerce, Washington, D.C. 20230. Each reporting form contains the specific instructions needed for completion.

Dated: June 2, 1976.

GEORGE A. JASZI,
*Director, Bureau of Economic Analysis.*

[FR Doc.76-16873 Filed 6-9-76;8:45 am]

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## CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

### SUBCHAPTER A—GENERAL REGULATIONS

## PART 908—MAINTAINING RECORDS AND SUBMITTING REPORTS ON WEATHER MODIFICATION ACTIVITIES

In a notice published in the FEDERAL REGISTER of February 24, 1976 (41 FR 8064), the Administrator of the National Oceanic and Atmospheric Administration proposed to amend the rules on maintaining records and submitting reports on weather modification activities (37 FR 22974 and 39 FR 1832). Interested persons were given until March 25, 1976 to submit written views, objections, recommendations, or suggestions in connection with the proposed amendments. The few comments received in response to the notice have been considered in detail, and, as a result, some revisions have been made in these amendments.

The first revision covers § 908.3(d), the amendment that allows the Administrator to waive some requirements in the reporting of certain weather modification attempts. This amendment has been clarified to provide specifically that all weather modification activities are to be reported to NOAA, that the Administrator may decide to waive some subsequent reporting requirements for certain activities after initial notification, and that the basis for such decision will be the general acceptability, from a technical or scientific viewpoint, of the apparatus and techniques to be used.

The second revision concerns the period for filing interim and final reports. Sections 908.5(a) and 908.6 now provide for such reports to be filed within 45 days, since some respondents stated that they would encounter difficulty in meeting a 30 day requirement.

The final revision is in § 908.5(a), with respect to the effective closing date for the interim report. period. In reconsidering this amendment, NOAA has decided to adopt January 1 as the closing date for the interim report in order to avoid ambiguity and to prepare summary reports that more accurately reflect the status of weather modification activities during a calendar year.

The original rules on maintaining records and submitting reports on weather modification activities were published in the FEDERAL REGISTER (37 FR 22974). These rules were subsequently amended (39 FR 1832). For completeness, the revisions mentioned above and the remainder of the amendments now being effected are summarized as follows:

1. Section 908.1(k) and (l) have been added ot define sponsor and operator.
2. The last sentence in § 908.3(c) has been restated.
3. Section 908.3 (d) and (e) have been added.
4. Section 908.4(a) has been revised.
5. Section 908.5(a) has been changed.
6. Section 908.5(b)(2) has been reworded.
7. Section 908.6 has been changed.
8. Section 908.6(c) has been changed.
9. Section 908.8(a)(1)(viii) has been reworded.
10. Section 908.8(a)(2) has been reworded.

The purpose of these rules is to provide for the reporting to the Administrator of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, of weather modification activities taking place within the United States, pursuant to the requirements of Pub. Law 92-205 as amended. The Secretary of Commerce (and by delegation the Administrator) is charged under the above law with the responsibility to assemble and retain records of such weather modification activities, to make these records publicly available to the fullest extent practicable, and to publish summaries thereof from time to time. The intent of this program is that expertise in the field of weather modification will be increased; that scientists and other concerned persons will have access to information about past and ongoing efforts toward weather modification; that concerned persons can determine whether their activities will be necessary or duplicative, can check both desirable and undesirable atmospheric changes against records of weather modification, and can be alert to possible territorial overlappings of weather modification operations. In addition, this reporting program provides information on the possibility of harm to persons, property, or the environment, or of interference with Federal research projects.

Appropriate Federal agencies also report their weather modification activities to the Secretary of Commerce. This Federal reporting complements the reporting of non-Federally sponsored projects and provides for a central source of information on all weather modification activities in the United States.

The actions of the Department of Commerce under these rules are not intended as, nor do they constitute, control or regulation of weather modification operations. Any notification that may be made to operators and State officials on the basis of information received will be advisory only.

Therefore, pursuant to the authority contained in 15 U.S.C. 330-330e and 15 U.S.C. 313, the National Oceanic and Atmospheric Administration (NOAA) has amended Title 15, Code of Federal Regulations by the addition of Part 908. These rules are administered by the Administrator, National Oceanic and Atmospheric Administration, on behalf of the Secretary of Commerce, pursuant to the Secretary's delegation of authority in section 3, subparagraph .01t of U.S. Department of Commerce Organization Order 25-5A. The current rules, including all amendments, are republished below in their entirety.

ROBERT M. WHITE,
*Administrator.*

JUNE 4, 1976.

Part 908 reads as follows:

Sec.


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|---|---|
| 908.1 | Definitions. |
| 908.2 | Persons subject to reporting. |
| 908.3 | Activities subject to reporting. |
| 908.4 | Initial report. |
| 908.5 | Interim reports. |
| 908.6 | Final report. |
| 908.7 | Supplemental reports. |
| 908.8 | Maintenance of records. |
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Sec.
908.10 Penalties.
908.11 Maintenance of records of related activities.
908.12 Public disclosure of information.
908.13 Address of letters.
908.14 Business to be transacted in writing.
908.15 Times for taking action: expiration on Saturday, Sunday, or holiday.
908.16 Signature.
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908.18 Matters not specifically provided for in rules.
908.19 Publication of notice of proposed amendments.
908.20 Effective date.
908.21 Report form.

AUTHORITY: Pub. L. 92-305, 85 Stat. 735, December 18, 1971.

### § 908.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Administrator.* The Administrator of the National Oceanic and Atmospheric Administration.

(b) *Person.* Any individual, corporation, company, association, firm, partnership, society, joint stock company, any State or local government or any agency thereof, or any other organization, whether commercial or nonprofit, except where acting solely as an employee, agent, or independent contractor of the Federal Government.

(c) *Weather modification activity.* Any activity performed with the intention of producing artificial changes in the composition, behavior, or dynamics of the atmosphere.

(d) *United States.* The several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or insular possession of the United States.

(e) *Persons whose activities relate to weather modification.* Persons engaged in weather modification activities or engaged in the distribution or sale of weather modification apparatus or materials known by them to be destined for use in weather modification activities.

(f) *Project.* A related series of weather modification activities having a common objective.

(g) *Modification mission.* One or more airborne weather modification activities intended to affect the same target area, or one or more weather modification activities carried out by items of ground-based weather modification apparatus intended to affect the same target area. For purposes of these rules, activities that extend beyond 1 calendar day shall constitute a separate mission for each day that they continue.

(h) *Target area.* The ground area within which the effects of the weather modification activity are expected to be found.

(j) *Control area.* A preselected, untreated ground area used for comparison with a target area.

(j) *Weather modification apparatus.* Any apparatus used with the intention of producing artificial changes in the composition, behavior, or dynamics of the atmosphere. For example: Seeding generators, propane devices, flares, rockets, artillery projectiles, jet engines, etc.

(k) *Sponsor.* The primary person for whom the weather modification activity is performed.

(l) *Operator.* The person who is primarily responsible for carrying out the weather modification activity.

### § 908.2 Persons subject to reporting.

Any person engaged or intending to engage in any weather modification activity in the United States shall be subject to the reporting provisions of this part.

### § 908.3 Activities subject to reporting.

(a) The following, when conducted as weather modification activities, shall be subject to reporting:

(1) Seeding or dispersing of any substance into clouds or fog, to alter drop size distribution, produce ice crystals or coagulation of droplets, alter the development of hail or lightning, or influence in any way the natural development cycle of clouds or their environment;

(2) Using fires or heat sources to influence convective circulation or to evaporate fog;

(3) Modifying the solar radiation exchange of the earth or clouds, through the release of gases, dusts, liquids, or aerosols into the atmosphere;

(4) Modifying the characteristics of land or water surfaces by dusting or treating with powders, liquid sprays, dyes, or other materials;

(5) Releasing electrically charged or radioactive particles, or ions, into the atmosphere;

(6) Applying shock waves, sonic energy sources, or other explosive or acoustic sources to the atmosphere;

(7) Using aircraft propeller downwash, jet wash, or other sources of artificial wind generation; or

(8) Using lasers or other sources of electromagnetic radiation.

(b) In addition to the activities listed above, other similar activities falling within the definition of weather modification as set forth in § 908.1 are also subject to reporting.

(c) The requirement for reporting shall not apply to activities of a purely local nature that can reasonably be expected not to modify the weather outside of the area of operation. This exception is presently restricted to the use of lightning deflection or static discharge devices in aircraft, boats, or buildings, and to the use of small heat sources, fans, fogging devices, aircraft downwash, or sprays to prevent the occurrence of frost in tracts or fields planted with crops susceptible to frost or freeze damage. Also expected from the requirement for reporting are religious activities or other ceremonies, rites and rituals intended to modify the weather.

(d) All activities noted in §§ 908.3(a) and (b) are subject to initial reporting. However, after the Administrator has received initial notification of a planned activity, he may waive some of the subsequent reporting requirements. This decision to waive certain reporting requirements will be based on the general acceptibility, from a technical or scientific viewpoint, of the apparatus and techniques to be used.

(e) Other reporting exceptions may be made in the future by rule of the Administrator.

### § 908.4 Initial report.

(a) Any person intending to engage in any weather modification project or activity in the United States shall provide a report of his intention, to be received by the Administrator at least 10 days before the commencement of such project or activity. This report shall contain at least the following:

(1) The designation, if any, used by the operator for the project or activity;

(2) The following dates for weather modification activities:

(i) The date the first actual weather modification activity is to be undertaken;

(ii) The date on which the final modification activity is expected to occur;

(3) The following information on persons involved with the project or activity:

(i) The name, affiliation, and address of the sponsor;

(ii) The name, affiliation, and address of the operator;

(4) The purpose of the project or activity;

(5) A map showing the approximate size and location of the target and control areas, and the location of each item of ground-based weather modification apparatus, precipitation measuring device, and, for airborne operations, the airport;

(6) A description of the weather modification apparatus, modification agents, and the techniques to be employed;

(7) The name and address of the responsible individual from whom log books or other records of the project or activity may be obtained;

(8) Answers to the following questions on project safeguards:

(i) Has an Environmental Impact Statement, Federal or State, been filed: Yes ____ No ____. If Yes, please furnish a copy as applicable.

(ii) Have provisions been made to acquire the latest forecasts, advisories, warnings, etc. of the National Weather Service, Forest Service, or others when issued prior to and during operations? Yes ____ No ____. If Yes, please specify on a separate sheet.

(iii) Have any safety procedures (operational constraints, provisions for suspension of operations, monitoring meth-

ods, etc.) and any environmental guidelines (related to the possible effects of the operations) been included in the operational plans? Yes ____ No ____. If Yes, please furnish copies or a description of the specific procedures and guidelines; and

(9) Optional remarks, to include any additional items which the person deems significant or of interest and such other information as the Administrator may request the person to submit.

(b) If circumstances prevent the signing of a contract or agreement to perform, or receipt of an authorization to proceed with, a weather modification activity at a date early enough to comply with paragraph (a) of this section, the initial report shall be provided so as to be received by the Administrator within 10 days of the date of signing of the contract or agreement, or receipt of authorization to proceed. In such cases, the report shall be accompanied by an explanation as to why it was not submitted at least 10 days prior to the commencement of the activity.

(c) In the event that circumstances beyond the control of the person liable to report under these regulations prevent the submission of the initial report in a timely manner as described above, the report shall be forwarded as early as possible, accompanied by an explanation as to why a timely report has not been provided. If such explanation is deemed adequate, the Administrator will consider the report as timely filed.

**§ 908.5 Interim reports.**

(a) Any person engaged in a weather modification project or activity in the United States on January 1 in any year shall submit to the Administrator, not later than 45 days thereafter, an interim report setting forth as of such date the information required below with respect to any such continuing project or activity not previously furnished to the Administrator in a prior interim report; provided that the January 1 date shall not apply if other arrangements have previously been made with the written approval of the Administrator.

(b) The interim report shall include the file number assigned by the Administrator and shall provide a summary of the project or activity containing at least the following information for each month:

(1) Number of days on which actual modification activities took place;

(2) Number of days on which weather modification activities were conducted, segregated by each of the major purposes of the activities;

(3) Number of modification missions that were carried out;

(4) Total number of hours of operation of each type of weather modification apparatus (i.e., net hours of agent release);

(5) Total amount of agent used. If more than one agent was used, each should be totaled separately (e.g., carbon dioxide, sodium chloride, urea, silver iodide).

(c) The totals for the items in paragraph (b) of this section shall be provided for the period covered by the interim report.

**§ 908.6 Final report.**

Upon completion of a weather modification project or activity the person who performed the same shall submit a report to the Administrator not later than 45 days after completion of the project or activity. The report shall include the file number assigned by the Administrator and the following items:

(a) Information required for the interim reports (to the extent not previously reported).

(b) The total number of days on which actual modification activities took place during the project or activity.

(c) The total number of days during the project or activity on which weather modification activities were conducted, segregated by each of the major purposes of the activities.

(d) The total number of modification missions that were carried out under the project or activity.

(e) The total number of hours of operation of each type of weather modification apparatus during the project or activity (i.e., net hours of agent release).

(f) The total amount of modification agent(s) dispensed during the project or activity. If more than one agent was used, each should be totaled separately (e.g., carbon dioxide, sodium chloride, urea, silver iodide).

(g) The date on which the final weather modification activity occurred.

**§ 908.7 Supplemental reports.**

Notwithstanding other regulations, a supplemental report in letter form referring to the appropriate NOAA file number, if assigned, must be made to the Administrator immediately if any report of weather modification activities submitted under § 908.4, § 908.5, or § 908.6 is found to contain any material inaccuracies, misstatements, and omissions. A supplemental report must also be made if there are changes in plans for the project or activity.

**§ 908.8 Maintenance of records.**

(a) Any person engaging in a weather modification activity in the United States shall maintain a record of such activity. This record shall contain at least the following, when applicable:

(1) A chronological record of activities carried on, preferably in the form of a daily log, which shall include the NOAA file number assigned to the project, the designation of each unit of weather modification apparatus, and at least the following information for each unit:

(i) Date of the weather modification activity.

(ii) Position of each aircraft or location of each item of weather modification apparatus during each modification mission. Maps may be used.

(iii) Time when weather modification activity began and ended.

(iv) Total duration of operation of each unit of weather modification apparatus (i.e., net hours of agent release).

(v) Type of each modification agent used.

(vi) Rate of dispersal of each agent during the period of actual operation of weather modification apparatus.

(vii) Total amount of agent used. If more than one agent was used, report total for each type separately.

(viii) Number of days on which weather modification activities were conducted, segregated by each of the major purposes of the activities.

(2) The monthly totals of hours of modification activity, the amount of modification agent used, and the number of days on which weather modification activities were conducted, segregated by each of the major purposes of the activities, shall be shown on the daily log sheet for the last day of each month.

(b) When the activity involves ground-based weather modification apparatus, records of the following shall also be maintained, when applicable, but need not be made part of the daily log:

(1) The location of each item of weather modification apparatus in use and its identification such as type and manufacturer's model number. If the apparatus is not commercially available, a brief description of the apparatus and the method of operation should be recorded.

(2) The name and address of the person responsible for operating each weather modification apparatus;

(3) The altitude and type of weather phenomenon subjected to weather modification activity during each operational period (e.g., cumulus clouds between 10,000 and 30,000 feet m.s.l.; ground fog).

(c) When the activity involves airborne weather modification apparatus, records of the following shall also be maintained, when applicable, but need not be made a part of the daily log: For each airborne weather modification apparatus run: altitude, air speed; release points of modification agents, method of modification and characteristics of flares, rockets, or other delivery systems employed; temperature at release altitude; and, for aircraft: the type of aircraft, its identification number, the airport or airports used, and the names and addresses of crew members and the person responsible for operating the weather modification apparatus; and the altitude and type of weather phenomenon subjected to weather modification activity during each operational period (e.g., cumulus clouds between 10,000 and 30,000 feet m.s.l.; ground fog).

(d) The following records shall also be maintained, whenever applicable, but need not be made a part of the daily log. Only data specifically collected for the reported activity need be retained; data available from other sources need not be included.

(1) Any descriptions that were recorded of meteorological conditions in target and control areas during the periods of operation; for example: percent of cloud cover, temperature, humidity, the presence of lightning, hail, funnel clouds, heavy rain or snow, and unusual radar patterns.

(2) All measurements made of precipitation in target and control areas.

(3) Any unusual results.

**§ 908.9 Retention of records.**

Records required under § 908.8 shall be retained and available for inspection by the Administrator or his designated representatives for 5 years after completion of the activity to which they relate. Such records shall be required to be produced for inspection only at the place where normally kept. The Administrator shall have the right to make copies of such records, if he deems necessary.

**§ 908.10 Penalties.**

Knowing and willful violation of any rule adopted under the authority of section 2 of Pub. L. 92–205 shall subject the person violating such rule to a fine of not more than $10,000, upon conviction thereof.

**§ 908.11 Maintenance of records of related activities.**

(a) Persons whose activities relate to weather modification activities, other than persons engaged in weather modification activities, shall maintain records concerning the identities of purchasers or users of weather modification apparatus or materials, the quantities or numbers of items purchased, and the times of such purchases. Such information shall be retained for at least 5 years.

(b) In addition, persons whose activities relate to weather modification shall be required, under the authority of section 4 of Pub. L. 92–205, to provide the Administrator, on his request, with information he deems necessary to carry out the purposes of this act.

**§ 908.12 Public disclosure of information.**

(a) Any records or other information obtained by the Administrator under these rules or otherwise under the authority of Pub. L. 92–205 shall be made publicly available to the fullest practicable extent. Such records or information may be inspected on written request to the Administrator. However, the Administrator will not disclose any information referred to in section 1905 of title 18, United States Code, and that is otherwise unavailable to the public, except that such information shall be disclosed—

(1) To other Federal Government departments, agencies, and officials for official use upon request;

(2) In any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding; and

(3) To the public, if necessary to protect their health and safety.

(b) Certified copies of such reports and information, to the extent publicly disclosable, may be obtained from the Administrator at cost in accordance with the Department of Commerce implementation of the Freedom of Information Act.

(c) Persons reporting on weather modification projects or related activities shall specifically identify all information that they consider not to be subject to public disclosure under the terms of Pub. L. 92–205 and provide reasons in support thereof. A determination as to whether or not reported information is subject to public dissemination shall be made by the Administrator.

(d) When consideration of a weather modification activity report and related information indicates that a proposed project may significantly depart from the practices or procedures generally employed in similar circumstances to avoid danger to persons, property, or the environment, or indicates that success of Federal research projects may be adversely affected if the proposed project is carried out as described, the Administrator will notify the operator(s) and State officials of such possibility and make recommendations where appropriate. The purpose of such notification shall be to inform those notified of existing practices and procedures or Federal research projects known to NOAA. Notification or recommendation, or failure to notify or recommend, shall not be construed as approval or disapproval of a proposed project or as an indication that, if carried out as proposed or recommended it may, in any way, protect or endanger persons, property, or the environment or affect the success of any Federal research project. Any advisory notification issued by the Administrator shall be available to the public and be included in the pertinent activity report file.

**§ 908.13 Address of letters.**

Letters and other communications intended for the Administrator, in connection with weather modification reporting or activities, shall be addressed to: The Administrator, National Oceanic and Atmospheric Administration, Environmental Modification Office, Rockville, Md. 20852.

**§ 908.14 Business to be transacted in writing.**

All business transacted with the National Oceanic and Atmospheric Administration with regard to reports of weather modification activities should be transacted in writing. Actions of the National Oceanic and Atmospheric Administration will be based exclusively on the written record.

**§ 908.15 Times for taking action; expiration on Saturday, Sunday, or holiday.**

Whenever periods of time are specified in these rules in days, calendar days are intended. When the day, or the last day, fixed under these rules for taking any action falls on a Saturday, Sunday, or on a Federal holiday, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.

**§ 908.16 Signature.**

All reports filed with the National Oceanic and Atmospheric Administration must be dated and signed by or on behalf of the person conducting or intending to conduct the weather modification activities referred to therein by such person, individually or, in the case of a person other than an individual, by a partner, officer, or other person having corresponding functions and authority. For this purpose "officer" means a president, vice president, treasurer, secretary, or comptroller. Notwithstanding the foregoing, such reports may also be signed by the duly authorized agent or attorney of the person whose activities are being reported. Proof of such authorization shall be furnished to the Administrator when filing a report, unless previously furnished.

**§ 908.17 Suspension or waiver of rules.**

In an extraordinary situation, any requirement of these rules may be suspended or waived by the Administrator on request of the interested party, to the extent such waiver is consistent with the provisions of Pub. L. 92–205 and subject to such other requirements as may be imposed.

**§ 908.18 Matters not specifically provided for in rules.**

All matters not specifically provided for or situations not specifically addressed in these rules will be decided in accordance with the merits of each case by or under the authority of the Administrator, and such decision will be communicated in writing to all parties involved in the case.

**§ 908.19 Publication of notice of proposed amendments.**

Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to these rules will be published in the FEDERAL REGISTER. If not published with the notice, copies of the text of proposed amendments will be furnished to any person requesting the same. All comments, suggestions, and briefs received within the time specified in the notice will be considered before adoption of the proposed amendments, which may be modified in the light thereof. Informal hearings may be held at the discretion of the Administrator.

**§ 908.20 Effective date.**

These rules are effective on June 10, 1976.

**§ 908.21 Report form.**

Pub. L. 92–205 and these rules should be studied carefully prior to reporting. Reports required by these rules shall be submitted on forms obtainable on request from the Administrator, or on an equivalent format.* In special situations, such alterations to the forms as the circumstances thereto may render necessary may be made, provided they do not depart from the requirements of these rules or of Pub. L. 92–205.

[FR Doc.76–16807 Filed 6–9–76;8:45 am]

## Title 19—Customs Duties

## CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76-166]

## PART 12—SPECIAL CLASSES OF MERCHANDISE

### Entry of Foreign-Made Pleasure Boats and Equipment

On June 17, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 25595), which proposed to amend Part 12 of the Customs Regulations (19 CFR Part 12) to reflect and implement those sections of the Coast Guard Regulations which set forth safety standards for certain foreign-made pleasure boats imported into the United States after November 1, 1972. The subject Coast Guard Regulations (33 CFR Parts 181, 183) were issued under the authority of sections 5, 7, and 39 of the Federal Boat Safety Act of 1971, Public Law 92-75, approved August 10, 1971 (46 U.S.C. 1454, 1456, 1488). Section 11 of the Act (46 U.S.C. 1460) provides that the Secretaries of the Department of the Treasury and the Department of Transportation may issue joint regulations concerning the importation of pleasure boats under safety standards described in accordance with the Act.

Interested persons were given 45 days from the date of publication of the notice to submit data, views or arguments with respect to the proposed amendment. After consideration of the comment received, it has been determined that the proposed amendment should be adopted as set forth in the notice of proposed rulemaking.

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below.

Effective date: This amendment shall become effective July 12, 1976.

R. RAYMOND,
*Acting Commissioner of Customs.*

Approved: April 14, 1976.

DAVID R. MACDONALD,
*Asistant Secretary of the Treasury.*

Approved: May 28, 1976.

O. W. SILER,
*Commandant, United States Coast Guard.*

Part 12 is amended by adding section 12.85 under the center heading "Safety Standards for Boats and Associated Equipment".

SAFETY STANDARDS FOR BOATS AND ASSOCIATED EQUIPMENT

**§ 12.85 Coast Guard boat and associated equipment safety standards.**

(a) *Applicability of standards or regulations prescribed by the Commandant, U.S. Coast Guard.* Boats and associated equipment (as hereinafter defined) are subject to U.S. Coast Guard safety regulations or standards when imported or, under certain conditions, brought into the United States after November 1, 1972. Those regulations or standards are prescribed by the Commandant, U.S. Coast Guard, pursuant to sections 5, 7, and 39, Federal Boat Safety Act of 1971 (46 U.S.C. 1454, 1456, 1488), as set forth in 33 CFR Parts 181, 183.

(1) The term "boats" includes:

(i) All vessels manufactured or used primarily for noncommercial use.

(ii) All vessels leased, rented, or chartered to another for the latter's noncommercial use.

(iii) All vessels engaged in the carrying of six or fewer passengers (see section 4.80 of this chapter on prohibitions against foreign vessels transporting passengers in the coastwise trade).

(2) For purposes of § 12.85 the term "boat" does not include:

(i) Foreign vessels temporarily using waters subject to U.S. jurisdiction.

(ii) Military or public vessels of the United States, except recreational type public vessels.

(iii) A vessel whose owner is a State or subdivision thereof, which is principally used for governmental purposes, and which is clearly identifiable as such.

(iv) Ships' lifeboats.

(3) The term "associated equipment" means:

(i) Any system, part, or component of a boat as originally manufactured, or a similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component (excluding radio equipment).

(ii) Any accessory or equipment for, or appurtenance to, a boat (excluding radio equipment).

(iii) Any marine safety article, accessory, or equipment intended for use by a person on board a boat (excluding radio equipment).

(4) The term "product" as used in this section, includes the terms "boats" and "associated equipment" as defined in paragraphs (a) (1), (2), and (3) of this section.

(b) *Evidence of compliance with boating standards or regulations as condition of entry.* A product for which entry is sought into the Customs territory of the United States will, subject to the exceptions specified in paragraph (c) of this section, be denied entry unless accompanied by evidence of compliance with standards or regulations as follows:

(1) A product subject to standards prescribed in 33 CFR Part 183 will have affixed to it a compliance certification label in accordance with the requirements of Subpart B, 33 CFR Part 181.

(2) A boat hull subject to Subpart C, 33 CFR Part 181 will have affixed to it a hull identification number affixed by the importer or the original manufacturer. The number shall comply with the format requirements of Subpart C, 33 CFR Part 181.

(c) *Products not in compliance with standards or regulations: Alternative evidence required as condition of entry and release.* Certain products shall be permitted entry and release without a compliance certification label or hull identification number affixed, as is required by Subparts B and C, 33 CFR Part 181, if they fall within one of the following categories, and if the conditions for entry and release specified for each category of product are met:

(1) *Products manufactured before standards or regulations in effect.* For certain products manufactured before an applicable standard or regulation was in effect, a declaration will be filed in accordance with the requirements of paragraph (d) of this section. The declaration will state that the product was manufactured before the applicable standard or regulation was in effect. If the district director believes that it is necessary in a particular case, he may communicate with the nearest Coast Guard district commander by the most expedient means to request that the Coast Guard determine that alteration of the product is not required. A verbal declaration is acceptable at the option of the district director for products entering from Canada or Mexico otherwise than by sea.

(2) *Products exempted from standards or regulations by Coast Guard Grant of Exemption.* For certain products specifically exempted from applicable standards or regulations by a Coast Guard Grant of Exemption, a declaration will be filed in accordance with paragraph (d) of this section. The declaration will state that the product has been specifically exempted from applicable standards or regulations by a U.S. Coast Guard Grant of Exemption, issued under the authority of section 9 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1458), and in effect on the date the product was manufactured. The declaration will also state that the product complies with all the terms and conditions of the exemption. A copy of the exemption, certified by the importer or consignee to be a true copy, shall be attached to each declaration.

(3) *Products to be brought into conformity.* In the case of products that are not in conformity at the time of entry but will be brought into conformity, a declaration will be filed in accordance with paragraph (d) of this section. The declaration will state that the product does not conform with applicable safety standards or regulations, but that the importer or consignee will bring the product into conformity with safety standards or regulations, and will also state that the product will not be sold or offered for sale, or used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for a vessel owned in the United States except for the purpose of bringing it into conformity, until the bond has been satisfied with respect to this obligation. To secure entry under this provision, bond must be given in accordance with paragraph (e) (1) of this section.

(4) *Certain products entering the United States for repair or alteration.* In

the case of a nonresident of the United States who wishes to enter a product for the purpose of making repairs or alterations to it for a period not exceeding 60 days from the date of entry, a declaration will be filed in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is a nonresident of the United States, that the product is being brought in for the purpose of making repairs or alterations to it, that it will not remain in the Customs territory of the United States for more than 60 days following the date of the entry, and that it will not be offered for sale, sold, or used for pleasure in waters subject to the jurisdiction of the United States during that time. However, the declaration required by this subparagraph shall be waived for persons regularly entering the United States from Canada or Mexico otherwise than by sea who obtain, by application to the district director, an appropriate means of identification that has been affixed to the boat to serve in place of the declaration.

(5) *Products owned by certain foreign government or international organization personnel.* In the case of an importer or consignee employed in one of the capacities set forth in this subparagraph, a declaration will be filed in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is either a member of the armed forces of a foreign country on assignment in the United States, or is a member of the Secretariat of a public international organization so designated pursuant to section 1 of the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), on assignment in the United States, or is a member of the personnel of a foreign government on assignment in the United States who comes within the class of persons for whom free entry of boats has been authorized by the Department of State, and that he is importing the product for purposes other than resale.

(6) *Certain products entered for tests or experimentation.* In the case of an importer or consignee seeking to enter a product, for tests or experimentation for a period not to exceed 1 year, that will not be sold in the United States, a declaration will be filed in accordance with the requirements of paragraph (d) of this section. The declaration will state that the importer or consignee is importing the product solely for the purpose of tests or experiments and it will not be sold or operated in the United States, except where such operation is an integral part of the tests and experiments for which the product was imported. The importer will attach to the declaration a description of the tests and experiments for which the product is being imported, the time period estimated to complete the tests, and the disposition to be made of the product after the tests and experiments are completed. Entry under this subparagraph may be authorized for a period not to exceed 1 year.

(d) *Declaration requirements.* All declarations submitted under paragraph (c) of this section, except verbal declarations submitted pursuant to paragraph (c)(1) of this section, must:

(1) Be filed with the entry, in duplicate.

(2) Be signed by the importer or consignee.

(3) State the name and U.S. address of the importer or consignee.

(4) State the entry number and date.

(5) Provide the make, model, and hull identification number, if affixed, of any boat, and a description of any equipment or component.

(6) Identify, if known, the city or State in which the product will be principally located.

The district director shall immediately forward the original of a declaration to the Commandant (G-BBC/62), U.S. Coast Guard, Washington, D.C. 20590.

(e) *Release under bond*—(1) *When bond required.* A bond in the amount prescribed by § 113.14 of this chapter will be required of the importer or consignee on Customs Form 7551, 7553, or 7595 when a declaration is made that a product is to be brought into conformity. When the importer or consignee of a product declares that it will be brought into conformity before being sold or offered for sale, or before being used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for a vessel owned in the United States and seeks entry of the product under paragraph (c)(3) of this section, the entry shall be accepted only if bond is given for the production of a statement by either the importer or the consignee that the product described in the declaration is in conformity with applicable safety standards or regulations. The statement shall identify the person or firm who has brought the product into conformity with the standards or regulations and shall describe the nature and extent of the work performed.

(2) *Time limitation to produce statement for which bond is obligated.* Within 90 days after entry, or any additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to both the district director and the Commandant, U.S. Coast Guard, a copy of the statement for production of which the bond was obligated. If the statement is not delivered to the district director for the port of entry of the product within 90 days after the date of entry or within an additional period allowed by the district director for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director those products which were released in accordance with this paragraph.

(3) *Damages to be assessed against bond.* In the event that any product is not redelivered within 5 days following the date required by subparagraph (2) of this paragraph, liquidated damages shall be assessed in the full amount of the bond given on Customs Form 7551. When the transaction has been charged against a bond given on Customs Form 7553 or 7595, liquidated damages shall be assessed in the amount that would be demanded under the preceding sentence if the product had been released under a bond given on Customs Form 7551.

(f) *Products refused entry.* If a product is denied entry under the provisions of this section, the district director shall refuse to release the product for entry into the United States and shall issue a notice of the refusal to the importer or consignee.

(g) *Disposition of products refused entry into the United States; redelivered products.* Products which are denied entry under paragraph (b) of this section, or which are redelivered in accordance with paragraph (e)(2) of this section, and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of a product in violation of the Federal Boat Safety Act of 1971 (46 U.S.C. 1451-1489).

(Sec. 623, 46 Stat. 759, as amended, secs. 5, 6, 7, 11, 15, 85 Stat. 215, 216, 217, 219 (19 U.S.C. 1623, 46 U.S.C. 1454, 1455, 1456, 1460, 1464) R.S. 251, as amended, secs. 624, 46 Stat. 759 (5 U.S.C. 301, 19 U.S.C. 66, 1624).)

[FR Doc.76-16945 Filed 6-9-76;8:45 am]

## Title 27—Alcohol, Tobacco Products and Firearms

## CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[Notice No. 293; Reference T.D. ATF-23]

## PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

### Recodification of Regulations and Transfer of High-Proof Concentrates; Correction

In FEDERAL REGISTER Doc. 76-1460 appearing on page 2643 for Monday, January 19, 1976, certain material was omitted. The document was a final Treasury decision to amend and recodify regulations on the production of volatile fruit-flavor concentrates, pursuant to a notice of proposed rulemaking published in the FEDERAL REGISTER on March 15, 1974.

In recodifying 27 CFR Part 198 as 27 CFR Part 18, one section, § 18.75, Continuing partnerships, was omitted from the text of both the notice of proposed rulemaking and the Treasury decision, as the result of a typographical error. Although the Table of Contents to Part 18 showed that previous § 198.68 was being recodified as new § 18.75, the actual regulatory language was inadvertently left out. No changes were made to § 18.75, except that a reference to another section in Part 18 was amended to reflect the renumbering and recodification to Part 18 from Part 198.

In consideration of the foregoing, amended § 18.75, as it should have appeared in T.D. ATF-23, reads as follows:

§ 18.75 Continuing partnerships.

If, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the plant under the prior qualification of the partnership, provided a consent of surety, wherein the surety and the surviving partner agree to remain liable on the bond given on Form 1694, is filed. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the date of acquisition, as provided in § 18.73(a). The rule set forth in this section shall also apply where there is more than one surviving partner.

Signed: June 3, 1976.

REX D. DAVIS,
*Director.*

[FR Doc.76-16788 Filed 6-9-76;8:45 am]

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## Title 33—Navigation and Navigable Waters

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-026]

### PART 82—BOUNDARY LINES OF INLAND WATERS

### PART 84—TOWING OF BARGES

#### Corrections

The Coast Guard is correcting nonsubstantive errors in Part 82. The errors were detected in a general review of the part and the corrections do not change any of the lines of demarcation as published in the Code of Federal Regulations or on current editions of charts issued by the National Ocean Survey.

Since these corrections are non-substantive it is unnecessary to issue a notice of proposed rulemaking and these corrections are effective immediately upon publication in the FEDERAL REGISTER.

In consideration of the foregoing Parts 82 and 84 of Title 33, Code of Federal Regulations are amended as follows:

1. By amending the authority citation in Part 82 to read as follows:

AUTHORITY: Sec. 2, 28 Stat. 672 as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b)).

2. By correcting § 82.15(b) by changing Nantucket Island to Esther Island on line 2.

3. By correcting § 82.95 by changing Pass a Loutre Daybeacon to Pass a Loutre Abandoned Lighthouse on the last line.

4. By correcting § 82.103 by changing Calcasieu Channel Lighted Whistle Buoy 20 to Calcasieu Channel Lighted Buoy 20 on line 8, and Sabine Bank Channel Lighted Bell Buoy 18 to Sabine Bank Channel Lighted Bell Buoy 12 on the last line.

5. By correcting § 82.106 by changing Sabine Bank Channel Lighted Bell Buoy 18 to Sabine Bank Channel Lighted Bell Buoy 12 on line 2.

6. By correcting § 82.131 by correcting the spelling of the word Buoy on line 4.

7. By correcting § 82.230 by changing Cayos Pajaros to Cayos De Pajaros on line 6.

(Sec. 2, 28 Stat. 672, as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b)).

8. By amending Part 84 by amending the authority citation to read as follows:

AUTHORITY: Sec. 14, 35 Stat. 428 as amended (33 U.S.C. 152), sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

(Sec. 14, 35 Stat. 428 as amended (33 U.S.C. 152); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b)).

*Effective date.* June 10, 1976.

Dated: June 4, 1976.

O. W. SILER,
*Admiral,*
*U.S. Coast Guard Commandant.*

[FR Doc.76-16848 Filed 6-9-76;8:45 am]

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[CGD 72-168]

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

#### St. Lucie River, Florida

This amendment changes the regulations for the Roosevelt Bridge across the St. Lucie River (Okeechobee Waterway), mile 7.5, at Stuart, Florida, to require that the draw open for the passage of vessels on the hour and half-hour from 7:30 to 9:00 a.m., and from 4:30 to 6:00 p.m., Monday through Friday. At all other times, the draw shall open on signal. This amendment was circulated as a public notice dated November 28, 1975, by the Commander, Seventh Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CG 72-168) on November 21, 1975 (40 FR 54259). Eight replies were received. Four favored the proposal and one offered no objection. Two agreed that this proposal was needed but objected to the alleged operation violation of an adjacent drawbridge, contending that if this bridge was not opened in concert with the Roosevelt bridge hazardous conditions could develop. No specific times and dates were presented to support these allegations and the bridge owner contended that the bridge is normally operated in compliance with current regulations. In view of the above, these two replies are considered as favoring the proposal. The eighth reply objected to the proposal but offered no specific reason for the objection, nor any alternative thereto.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations, is amended by adding a new § 117.438b immediately after § 117.438a to read as follows:

§ 117.438b St. Lucie River, Florida, Roosevelt Bridge, U.S. Highway No. 1, Stuart.

(a) From 7:30 a.m. to 9:00 a.m. and 4:30 p.m. to 6:00 p.m., Monday through Friday, the draw need not open for passage of vessels except that on the hour and half-hour the draw shall open to pass awaiting vessels. At all other times the draw shall open on the signals set forth in § 117.240.

(b) The draw shall open at any time for the passage of public vessels of the United States, state or local government vessels used for public service, tugs with tows, and vessels in distress. The opening signal from these vessels is four blasts of a whistle or horn or by shouting.

(c) The owner of or agency controlling the bridge shall conspicuously post notices containing the substance of these regulations both upstream and downstream on the bridge or elsewhere in such a manner that they can easily be read at all times from an approaching vessel.

(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(c)(4)).

*Effective date.* This revision shall become effective on July 12, 1976.

Dated: June 7, 1976.

D. J. RILEY,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.*

[FR Doc.76-16850 Filed 6-9-76;8:45 am]

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[CGD-76-076]

### PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

### PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEM

#### Editorial Corrections

The purpose of this amendment is to change certain portions of Subchapter S, Parts 173 and 174 of Title 33, Code of Federal Regulations.

Appendix A of 33 CFR 173 lists those States which conduct the functions of issuing boat numbers and requiring the reporting of boating accidents, and those States which do not conduct these functions. In the latter case, the Coast Guard issues the numbers and requires the reporting of accidents.

Two States became issuing and reporting authorities since the Appendix was published: Guam became an authority on 1 January 1973 and the District of Columbia became an authority on 1 February 1975. The Coast Guard is revising Appendix A to reflect these changes.

33 CFR 174.125 lists the address to which reports required by 33 CFR 174.123 must be forwarded. The mail routing symbol has changed since these regulations were originally published. The Coast Guard is revising this section to reflect the current mail routing symbol.

In as much as these amendments only consist of editorial changes and, therefore, do not affect the substance of the regulations being amended, good cause exists for omitting notice and public procedure thereon pursuant to 5 U.S.C. 553 (b)(3)(B).

In consideration of the foregoing, Subchapter S, Title 33 of the Code of Federal Regulations is amended as follows:

**Appendix A [Amended]**

1. By revising paragraph (a) of Appendix A of Part 173 by adding the phrase, "District of Columbia–DC" after the phrase, "Delaware–DL", and before the phrase, "Florida–FL"; and by adding the phrase, "Guam–GM" after the phrase, "Georgia–GA", and before the phrase, "Hawaii–HA".

2. By revising paragraph (b) of Appendix A of Part 173 by deleting the phrases, "District of Columbia–DC", and "Guam–GM," from the list of States.

3. By revising § 174.125 to read as follows:

**§ 174.125 Coast Guard Address.**

The report required by § 174.123 must be sent to the Commandant (G–BLC), U.S. Coast Guard, Washington, D.C. 20590.

(Secs. 18 and 39, 85 Stat. 213, 220, 228 (46 U.S.C. 1451, 1488), 49 CFR 1.46 (n)(1))

*Effective date:* This amendment takes effect on June 10, 1976.

Dated: June 3, 1976.

O. W. SILER,
*Admiral,*
*U.S. Coast Guard Commandant.*

[FR Doc.76–16851 Filed 6–9–76;8:45 am]

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## Title 46—Shipping

## CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76–061]

## PART 105—COMMERCIAL FISHING VESSELS DISPENSING PETROLEUM PRODUCTS

### Construction of Cargo Tanks

This amendment corrects an error in the regulations prescribing construction materials for cargo tanks used by commercial fishing vessels that dispense petroleum products.

In the FEDERAL REGISTER issue of June 29, 1973 (38 CFR 17229) the Coast Guard amended Table 105.20–3(a)(1) of Part 105 in Title 46, Code of Federal Regulations, to include aluminum as an acceptable material to use in the construction of the gasoline and diesel fuel cargo tanks of commercial fishing vessels that dispense petroleum products. Through a drafting oversight the enumeration of acceptable materials in the text of paragraph (a)(1) of § 105.20–3 of that part was not also amended to reflect the acceptability of aluminum. This amendment adds aluminum to the enumeration of acceptable materials.

Since this amendment is purely editorial in nature prior notice and public comment procedure are unnecessary and the amendment may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 105 of Title 46, Code of Federal Regulations, is amended by revising the first sentence of paragraph (a)(1) of § 105.20–3 to read as follows:

**§ 105.20–3 Cargo tanks.**

(a) *Construction and Materials.* (1) The cargo tanks must be constructed of iron, steel, copper, nickel alloy, copper alloy; or aluminum. * * *

* * * * *

(14 U.S.C. 2 and 633, 46 U.S.C. 375, 391a, 416, and 481; 49 U.S.C. 1655(b); and 49 CFR 1.4 (b) and 1.46)

*Effective date:* June 10, 1976.

Dated: June 3, 1976.

O. W. SILER,
*Admiral,*
*U.S. Coast Guard Commandant.*

[FR Doc.76–16849 Filed 6–9–76;8:45 am]

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[CGD 74–13]

## PART 148—SOLIDS IN BULK

### Carriage of Solid Hazardous Materials in Bulk; Changes and Transfer

The purpose of these amendments to the dangerous cargo regulations is to transfer the requirements for the carriage of solid hazardous materials in bulk from 46 CFR 146 to 46 CFR 148 and in addition to make several changes to the existing requirements for these bulk hazardous materials.

Interested persons have been afforded an opportunity to participate in this rule making by notice of proposed rule making that was published in the FEDERAL REGISTER on May 15, 1974 (39 FR 17331) and by a public hearing that was held on July 16, 1974. Two oral and seven written comments were received. All comments received supported the consolidation of the requirements for the carriage of solid hazardous materials in bulk and the transfer of these requirements to a separate part. Several comments were made on specific requirements.

One comment suggested that § 148.01–7 Permitted Cargoes, should supply additional information as to the hazard of the cargoes listed. The need for information concerning the hazard associated with bulk shipments of the permitted cargoes is essential to the shipper, the carrier, and to emergency response personnel. On the basis of the comment and the need for additional information, § 148.01–7 is being modified to identify the hazard class of each of the permitted cargoes and to provide a statement of the characteristic hazard. Also, several additional cargoes are being permitted which were previously authorized in 46 CFR 146 but were omitted inadvertently from the proposal. In addition, the shipping paper requirements, § 148.02–1, are being modified to require the inclusion of the hazard class of the material after the shipping name.

A comment pointed out that the requirements for Filing of Special Petition for Special Permit, § 148.01–9, do not allow sufficient flexibility in view of the 45 day period specified for advance filing and processing. The section dealing with the issuance of special permits is being retained as proposed. This section does provide for priority treatment of special permit requests where evidence is presented that the request is of an emergency nature and in the interest of the public safety or welfare.

A comment addressing § 148.02–3 stated that this section would not apply to unmanned barges. On the basis of this comment and the consideration that the dangerous cargo manifest is an essential document on any vessel transporting hazardous materials, § 148.02–3 is being modified to add an additional paragraph which will require the dangerous cargo manifest to be in a retrievable location on unmanned barges carrying hazardous materials. A comment was received concerning § 148.03–7. The comment states that on unmanned barges it is virtually impossible to inspect cargo for temperature changes. On the basis of this comment, and in view of the limited number of casualties reported on the transportation of solid hazardous materials in bulk on unmanned barges, § 148.03–7 is being modified so as to continue the exemption from the requirement to inspect cargo during transport previously granted unmanned barges.

A comment stated that § 148.04–1(b) would prohibit reuse of holds if there is a significant removable radioactive surface contamination. It was further stated that the use of the term "significant" without numerical definition would lead to confusion. It was suggested that the paragraph be amended to add a reference to 49 CFR 173.397, "Contamination Control," which sets forth the numerical value of contamination that is not significant. On the basis of this comment, § 149.04–1(b) has been so amended.

A comment on the section of fishmeal, § 148.04–9, pointed out that the preamble to the proposal indicated that the revision of the entry for fishmeal is based on the new IMCO recommendations. It was pointed out that the IMCO recommendations also provide temperature requirements for the cargo at the time of loading. On the basis of this comment the section on fishmeal, § 148.04–9, is being modified to reflect IMCO recommendations with respect to the temperature of the cargo at the time of loading.

One comment was directed at the carbon dioxide fire extinguishment system which is required for the shipment of metal turnings and borings in bulk § 148.04–13. The comment stated that this system as well as the temperature requirements imposed on the cargo would impose numerous limitations on the movement of the cargo. The section on metal turnings and borings, § 148.04–13, is being retained as proposed since these requirements were not amended by the proposal but merely transferred from Part 146 to 148. Changes to these requirements would have to be the subject of a future rulemaking. A current proposal does exist in 40 FR 32341 which would, if adopted, eliminate the require-

ment for carbon dioxide fire extinguishment systems for the shipment of metal turnings and borings in bulk. When that rulemaking is finalized the outcome will be reflected in these requirements.

A comment received on the section concerning the shipment of sulfur in bulk stated that the requirement to restrict air circulation to holds in which sulfur is being loaded increases the potential for dust explosions. This comment is consistent with the IMCO recommendations for the shipment of sulfur in bulk, therefore, the section dealing with the shipment of sulfur in bulk is being modified to require that cowl ventilators serving a hold in which sulfur is being loaded be opened to provide circulation of air.

A comment to the section on coconut meal, § 148.04–21, pointed out that the dunnage requirements in that section are directed to the shipment of the material in packaged form. Reference to dunnage requirements are being deleted.

In the August 15, 1975 FEDERAL REGISTER (40 FR 34340) the Coast Guard published an amendment to 46 CFR 146 to provide for the shipment of unslaked lime in bulk. The substance of that amendment is being incorporated into this rule making.

Compliance with these amendments before the effective date is considered by the Coast Guard as compliance with existing regulations. Under 46 U.S.C. 170 (9), the Commandant of the Coast Guard is authorized to make additions, alterations, amendments, or repeals of regulations implementing 46 U.S.C. 170 effective within a shorter time than ninety days after their promulgation.

EFFECTIVE DATE: This Part becomes effective on June 30, 1976, to preserve continuity of the existing regulations in view of the fact that the Director, Materials Transportation Bureau, on behalf of the Coast Guard, revoked effective July 1, 1976, 46 CFR Subparts 146.01, 146.28 and 146.30 which contained these regulations (41 FR 15972). In consideration of the foregoing, Title 46 of the Code of Federal Regulations is amended by adding Part 148—Solids in Bulk as follows:

**Subpart 148.01—General**

Sec.


148.01–1 Purpose and Applicability.
148.01–7 Permitted Cargoes.
148.01–9 Filing of Special Petition for Special Permit.
148.01–11 Special Permits; Standard Conditions.
148.01–13 Assignment and Certification.


**Subpart 148.02—Vessel Requirements**


148.02–1 Shipping Papers.
148.02–3 Dangerous Cargo Manifest.
148.02–5 Report of Hazardous Materials Incidents.


**Subpart 148.03—Minimum Transportation Requirements**


148.03–1 General.
148.03–3 Direction and Observation.
148.03–5 Prior to Loading.
148.03–7 During Transport.
148.03–11 Stowage Conditions.
148.03–13 Completion of Off-Loading.


**Subpart 148.04—Special Additional Requirements for Certain Materials**


148.04–1 Radioactive Material, Low Specific Activity (LSA).
148.04–9 Fishmeal or Scrap, Ground or Pelletized; Fishmeal or Scrap, Ground and Pelletized (Mixture).
148.04–13 Metal Borings, Shavings, Turnings, Cuttings.
148.04–15 Petroleum Coke, Uncalcined; Petroleum Coke, Uncalcined and Calcined (Mixture).
148.04–17 Petroleum Coke, Calcined, at 130° F or above.
148.04–19 Tankage, Garbage or Rough Ammoniate, Solid.
148.04–20 Sulfur.
148.04–21 Coconut Meal Pellets (Also known as Copra Pellets).


AUTHORITY: 46 U.S.C. 170, 49 U.S.C. 1665 (b); 49 CFR 1.46 unless otherwise noted.

## Subpart 148.01—General

### § 148.01–1 Purpose and Applicability.

(a) 46 U.S.C. 170(6)(a) prohibits transportation of bulk solid hazardous materials on board any vessel, subject to certain exceptions in 46 U.S.C. 170(6)(b), except as permitted by the regulations of the Commandant of the Coast Guard. This Part prescribes regulations under which bulk solid hazardous materials may be transported. Each master, person in charge of the vessel, owner, charterer and agent shall ensure compliance with this Part and communicate the requirements of this Part to every person performing any function covered by this Part. Each person involved in the transportation of bulk solid hazardous materials shall comply with the requirements of this Part within the scope of his job responsibilities.

(b) For the purposes of this Part, the term "bulk" applies only to cargoes transported on board cargo vessels or barges without mark or count and which are to be directly loaded into the holds of such vessels or barges without containers or wrappers.

(c) For the purposes of this Part, the term "vessel" means a "cargo vessel or barge" which is not exempt from the provisions of 46 U.S.C. 170.

(d) For the purposes of this Part, the term "transported" includes the various operations associated with the cargo transportation such as, loading, offloading, handling, storing, stowing, carrying, conveying, using, etc.

(e) The term "hazardous materials" is defined in Title 46 CFR 2.20–65(a). The term "hazardous materials" includes a number of specific classes, the definitions of which are contained in Title 49 CFR Parts 170–189.

### § 148.01–7 Permitted Cargoes.

(a) The solid hazardous materials cargoes listed here may be transported in bulk on board vessels if they comply with the regulations in this Part. Unlisted cargoes may be transported only if express authority is given by the Commandant in accordance with § 148.01–9 of this Part.

| Shipping name of the hazardous material | Hazard class of the hazardous material | Characteristic properties of the hazardous materials |
|---|---|---|
| Aluminum dross | Flammable solid | Contact with water may cause self-heating and the evolution of flammable gas. |
| Aluminum nitrate | Oxidizing material | If involved in a fire will greatly intensify the burning of combustible materials. |
| Ammonium nitrate fertilizer, formulation or mixture, containing less than 60 pct ammonium nitrate with no organic filler. | do | Do. |
| Ammonium sulfate nitrate | Hazardous article | Do. |
| Barium nitrate | Oxidizing material | Do. |
| Calcium nitrate | do | Do. |
| Charcoal briquets | Flammable solid | Contact with water may cause self-heating. |
| Coconut meal pellets (or copra pellets) containing at least 6 pct and not more than 13 pct moisture and not more than 10 pct residual fat content. | Hazardous article | Subject to spontaneous heating by biological decay or by oxidation. |
| Copra, dry | do | Susceptible to spontaneous heating or fire from spark or open flame. |
| Ferrophosphorous | do | May evolve poisonous gas (phosphine) in contact with moisture. |
| Ferrosilicon, containing 30 pct or more but not more than 70 pct silicon. | do | May evolve poisonous and flammable gases (arsine/phosphine) in contact with water, acids, or alkalines. |
| Fishmeal or scrap, ground, containing 6 to 12 pct moisture and no more than 18 pct fat by weight. | do | Susceptible to spontaneous heating and ignition. |
| Fishmeal or scrap, ground and pelletized (mixture), containing 6 to 12 pct moisture and no more than 18 pct fat by weight. | do | Do |
| Fishmeal or scrap, pelletized, containing 6 to 12 pct moisture and no more than 18 pct fat by weight. | do | Do. |
| Lead nitrate | Oxidizing material | If involved in fire will greatly intensify the burning of combustible materials. |
| Lime, unslaked | Hazardous article | Evolves heat on contact with water. |
| Magnesium nitrate | Oxidizing material | If involved in a fire will greatly intensify the burning of combustible materials. |
| Metal borings, shavings, turnings, or cuttings. | Hazardous article | Susceptible to spontaneous heating and ignition. |
| Petroleum coke, calcined, at 130° F or above | do | Do. |
| Petroleum coke, uncalcined | do | Do. |
| Potassium nitrate | Oxidizing material | If involved in a fire will greatly intensify the burning of combustible materials. |
| Radioactive material, low specific activity (LSA). | Radioactive material | Radiation hazard from ingestion, inhalation, and contact with mucus membranes. |
| Sawdust | Hazardous article | Susceptible to fire from sparks or open flame. |
| Sodium nitrate | Oxidizing material | If involved in a fire will greatly intensify the burning of combustible materials. |
| Strontium nitrate (not radioactive) | do | Do. |
| Sulfur | Hazardous article | Dust forms explosive mixtures with air. |
| Tankage, garbage, or rough ammoniate, solid | do | Susceptible to spontaneous heating and ignition. |

(b) A mixture or blend of two or more cargoes, one or more of which is listed in paragraph (a) of this section, will be treated as an unlisted cargo and specific authorization by the Commandant, in accordance with § 148.01–9, for shipment in bulk is required.

**§ 148.01–9 Filing of Special Petition for Special Permit.**

(a) A petition for authorization to transport an unlisted cargo or to use alternative procedures must be submitted to the U.S. Coast Guard (G–MHM–2/83), Washington, D.C. 20590, and must contain the following minimum information:

(1) The regulatory provisions involved.

(2) The justification for the proposed shipments or alternative procedure, including any reasons why the current regulations are not appropriate, why the public interest would be served by the proposal, and the basis upon which the proposal would provide an equivalent degree of safety to those shipments conducted in accordance with the current regulations.

(3) A detailed description of the proposal, including when appropriate, drawings, plans, calculations, procedures, test results, previous approvals or permits, and any other supporting information.

(4) The chemical name, common name, hazard classification for properties (chemical and physical), and characteristics of the materials covered by the proposal, including composition and ingredient percentages (specified by weight) if a mixture.

(5) Any relevant shipping or accident experience.

(6) A description of the vessel or vessels to be employed for the shipments and the U.S. ports to be involved.

(7) A statement or recommendation regarding any changes to the regulations which would be desirable to obviate the need for similar permission from the Commandant.

(b) Unless there is a good reason for priority treatment, each proposal is considered in the order in which it is received. To permit timely consideration, proposals should be submitted at least 45 days before the requested effective date.

**§ 148.01–11 Special Permits; Standard Conditions.**

(a) Each person to whom a special permit is issued under the terms of § 148.01–9 shall comply with all requirements of this Part except as specifically provided by the terms of the special permit.

(b) Unless otherwise specified in the special permit, each shipment made under special permit must comply with the following:

(1) Each shipping paper issued and the dangerous cargo manifest prepared in connection with such shipment must bear the notation "CG Special Permit No. *" with the * to be filled in with the assigned special permit number.

(2) Each person to whom a special permit is issued shall furnish a summary of experience to the U.S. Coast Guard (G–MHM–2/83), Washington, D.C. 20590, before the date of expiration of the permit and when any amendment to the special permit is requested. The information must include the number of shipments made, tonnage of each shipment, and what vessels and U.S. Ports were involved. In addition, an immediate report must be submitted the U.S. Coast Guard (G–MHM–2/83) in the event of any casualty, accident, or damaging incident which occurs when transporting solid hazardous materials in bulk under the terms of a special permit.

(3) A copy of the special permit, kept current, and any amendments thereto, must be on board each vessel while transporting solid hazardous materials in bulk under the terms of a special permit. The special permit must be kept with the dangerous cargo manifest (§ 148.02–3).

(c) Each permit is subject to suspension or revocation for cause by the U.S. Coast Guard before its expiration date.

**§ 148.01–13 Assignment and Certification.**

(a) The National Cargo Bureau, Inc., is authorized to assist the U.S. Coast Guard in administering the provisions contained in this Part that are applicable to the transportation of solid hazardous materials in bulk on vessels with respect to:

(1) Inspection of vessels for suitability for loading such materials in bulk;

(2) Examination of stowage of such materials loaded in bulk on board vessels;

(3) Making recommendations as to stowage requirements applicable to the transportation of such materials in bulk; and

(4) Issuing of certificates of loading, setting forth that the stowage of such materials in bulk is in accordance with applicable regulations contained in this Part.

(b) Certificates of loading from the National Cargo Bureau, Inc., are accepted as evidence of compliance with the applicable provisions of this Part with respect to the transportation of solid hazardous materials in bulk on board vessels.

## Subpart 148.02—Vessel Requirements

**§ 148.02–1 Shipping Papers.**

(a) Carriers may not accept for transportation nor transport by vessel in bulk any solid hazardous materials listed in § 148.01–7(a) of this Part, unless the hazardous materials offered for such shipment is accompanied by a shipping paper on which the following information is shown:

(1) The shipping name and hazard class of the hazardous material as listed in § 148.01–7(a) of this Part.

(2) The quantity of the hazardous material to be transported.

(3) The name and address of the U.S. shipper or his authorized representative.

(4) A certification which bears the following statement, signed by the shipper or his authorized representative: "This is to certify that the above-named hazardous material is properly named, prepared, and otherwise in proper condition for bulk shipment by vessel in accordance with the applicable regulations of the U.S. Coast Guard".

(b) For import shipments, the consignee shall advise the carrier or foreign shipper (consignor) of the applicable U.S. Coast Guard regulations. The carrier or foreign shipper (consignor) shall then furnish the information required in paragraph (a) of this section, as advised by the consignee, either on the shipping papers or dangerous cargo manifest.

(c) Shipping papers issued in connection with solid hazardous materials shipments in bulk must be kept on board the vessel along with the dangerous cargo manifest (§ 148.02–3 of this Part).

**§ 148.02–3 Dangerous Cargo Manifest.**

(a) Each vessel, except for unmanned barges, transporting solid hazardous materials in bulk under the terms of this Part must have on board a dangerous cargo manifest, kept in a conspicuous place on or near the bridge house, on which the following information is entered:

(1) Name of vessel and official number. (If the vessel has no official number, the international radio call sign must be substituted.)

(2) Nationality of vessel.

(3) The name of the hazardous material as listed in § 148.01–7(a) of this Part.

(4) The hold(s) in which the material is being transported.

(5) The quantity of the material loaded in each hold.

(6) Date and signature of Master of the vessels' owner or his authorized representative to acknowledge correctness of the dangerous cargo manifest.

(b) Each unmanned barge transporting solid hazardous materials in bulk under the terms of this Part must have on board, in a readily retrievable location, such as a metal tube attached to the barge, a dangerous cargo manifest prepared in accordance with paragraph (a) of this section.

**§ 148.02–5 Report of Hazardous Materials Incidents.**

(a) In the event of an incident involving hazardous materials an immediate report must be sent to the Coast Guard in accordance with 46 CFR § 2.20–65.

## Subpart 148.03—Minimum Transportation Requirements

**§ 148.03–1 General.**

The regulations in this Subpart apply to each bulk shipment of a solid hazardous material listed in § 148.01–7 of this Part.

**§ 148.03–3 Direction and Observation.**

Loading or off-loading of a solid hazardous material in bulk within the navigable waters of the U.S. must be conducted only under the direction and observation of a person assigned or employed for such duty by the vessel's mas-

ter or owner or authorized representative.

**§ 148.03–5 Prior to Loading.**

Prior to loading any solid hazardous material in bulk on board a vessel:

(a) Each hold must be thoroughly cleaned of all loose debris and dunnage; but permanent wooden battens or sheathing may remain in the hold; and

(b) each hold and each bilge of that hold must be dry.

**§ 148.03–7 During Transport.**

During the transport of a solid hazardous material in bulk, except for unmanned vessels, cargo shall be periodically inspected to ensure that there are no undetected increases in temperature in that cargo and that no other changes in the cargo are occurring that might affect the safety of his vessel and the results of these inspections shall be recorded in a log.

**§ 148.03–11 Stowage Conditions.**

(a) Other hazardous materials cargo must not be stowed in the same hold or on deck above a hold in which a solid hazardous material in bulk is loaded.

(b) No explosive Class C, flammable liquid, flammable solid, flammable or nonflammable compressed gas, organic peroxide, or extremely dangerous poison may be stowed in any hold adjacent to a hold in which a solid hazardous material in bulk is loaded.

(c) All explosive Class A and B materials must be stowed longitudinally at least one hold (or an equivalent longitudinal distance if on deck) from any hold in which hazardous material in bulk is loaded.

(d) Combustible cargo must not be stowed in a hold in which a solid hazardous material in bulk is loaded.

**§ 148.03–13 Completion of Off-loading.**

Upon the completion of off-loading of a solid hazardous material in bulk, each hold must be thoroughly cleaned of all residue of such material.

## Subpart 148.04—Special Additional Requirements for Certain Material

**§ 148.04–1 Radioactive Material, Low Specific Activity (LSA).**

(a) Authorized materials are limited to:

(1) Uranium or thorium ores and physical or chemical concentrates of such ores;

(2) Uranium metal, natural thorium metal and alloys of these metals; and

(3) Material of low radioactive concentration, if the estimated radioactivity concentration does not exceed 0.001 millicurie per gram and the contribution from Group I material (See Title 49, Code of Federal Regulations, Parts 170 to 189, inclusive) does not exceed 1 percent of the total radioactivity.

(b) Each hold used for the transportation of any of these materials must be surveyed with appropriate radiation-detection instruments after the completion of off-loading. Such holds must not again be used for the transportation of any cargo until the radiation dose rate at any accessible surface is less than 0.5 millirem per hour and until there is no significant removable radioactive surface contamination according to 49 CFR 173.397.

**§ 148.04–9 Fishmeal or Scrap, Ground or Pelletized; Fishmeal or Scrap, Ground and Pelletized (Mixture).**

(a) The fishmeal or scrap, ground or pelletized and fishmeal or scrap, ground and pelletized mixture must contain at least 6 percent moisture by weight but not more than 12 percent moisture by weight.

(b) The material must not contain more than 18 percent fat by weight.

(c) At the time of production of the material, it must be treated with at least 400 ppm antioxidant (ethoxyquin); in the case where the material contains more than 12 percent fat by weight, it must be treated with at least 1000 ppm antioxidant (ethyoxyquin) at the time of production.

(d) Shipment of the material in bulk must take place within twelve months of the date of production.

(e) The temperature of the material to be loaded must not, at the time of loading exceed 35° C (95° F), or 5° F above ambient temperature, whichever is greater.

(f) The material must contain at least 100 ppm antioxidant (ethoxyquin) at the time of shipment.

(g) Each shipment of the material in bulk must be accompanied by a statement in which the shipper certifies—

(1) The moisture content of the material;

(2) The fat content of the material;

(3) The concentration of antioxidant (ethoxyquin) in the material in ppm at the time the material is loaded on a vessel in bulk;

(4) Date and place of production of the material; and

(5) The physical state of the material (ground, pelletized, or mixture).

(h) Temperature readings must be taken three times a day and recorded. If the temperature of the cargo exceeds 130° F and continues to increase, ventilation to the hold must be restricted.

**§ 148.04–13 Metal Borings, Shavings, Turnings, Cuttings.**

(a) Metal borings, shavings, turnings and cuttings must not be stowed and transported in bulk unless the following conditions are met:

(1) Each hold in which the article is stowed must have a fire extinguishment system that uses carbon dioxide or an equivalent to carbon dioxide with respect to fire extinguishing capability. Temporary systems are acceptable.

(2) All wooden sweat battens, dunnage and debris must be removed from the hold before the article is loaded.

(3) During loading and transporting, the bilge of each hold in which the article is stowed or is to be stowed must be as dry as practicable.

(4) During loading, the article must be compacted in the hold as frequently as practicable with a bulldozer or means that provide equivalent surface compaction. Upon completion of loading, the article must be trimmed to eliminate peaks or mounds and compacted.

(5) Other cargo must not be loaded in a hold containing the article if:

(i) The cargo to be loaded in the same hold with the article is another hazardous material as defined in this Part or a combustible material;

(ii) The loading of the article is not completed first; and

(iii) The temperature of the article in the hold is above 130° F or has increased within eight hours before loading of the other cargo.

(6) During loading, the temperature of the article in the pile being loaded must be less than 130° F.

(7) Upon completion of loading, the vessel may not leave the port unless:

(i) The temperature of each article in each hold is less than 150° F and, if the temperature of the article in a hold has been more than 150° F during loading, the temperature of each article has shown a downward trend below 150° F for at least eight hours after completion of loading of the hold; or

(ii) The vessel intends to sail directly to another port that is no further than twelve hours sailing time for the vessel concerned, for the purpose of loading more of the article in bulk or to completely off-load the article, and the temperature of the article is less than 190° F and has shown a downward trend for at least eight hours after completion of loading.

(b) For the purposes of each temperature requirement of this section, the temperature of the article is the highest temperature taken between eight and fourteen inches below the surface at ten-foot intervals over its length and width.

(c) The master or person in charge of a vessel that is loading or transporting the article must ensure that the temperature of the article is taken:

(1) Before loading;

(2) During loading, in each hold and in the pile being loaded at least every twenty-four hours and, if the temperature is rising, as often as necessary to ensure the conditions in this section are met; and

(3) After loading, in each hold at least every twenty-four hours.

(d) During loading, if the temperature of the article in a hold is 200° F or higher, the master or person in charge of the vessel must notify the Coast Guard Captain of the Port and suspend loading until the temperature of the article is less than 190° F.

(e) After loading:

(1) If the temperature of the article is 150° F or above, the master or person in charge must notify the Captain of the Port and ensure that the vessel remains in the port area until the conditions of paragraph (a)(7)(i) of this section are met; or

(2) In the case of a short-duration voyage to which paragraph (a)(7)(ii)

of this section applies, if the temperature of the article in a hold is 190° F or above, the master or person in charge must notify the Captain of the Port and ensure that the vessel remains in the port area until the conditions of paragraph (a)(7)(ii) of this section are met.

(f) Except for shipments of the article in bulk which leave the port of loading under the conditions specified in paragraphs (a)(7)(ii) of this section, after the vessel leaves the port, if the temperature of the article in the hold rises above 149° F, the master must notify the nearest Coast Guard Captain of the Port as soon as possible of:

(1) The name, nationality, and position of the vessel;

(2) The most recent temperature taken;

(3) The length of time that the temperature has been above 149° F and the rate of rise, if any;

(4) The port where the article was loaded and the destination of the article;

(5) The last port of call of the vessel and its next port of call;

(6) What action has been taken; and

(7) Whether any other cargo is endangered.

(g) To meet the conditions of this section, the master of a vessel that is transporting the article must ensure that each temperature taken is recorded.

**§ 148.04–15 Petroleum Coke, Uncalcined; Petroleum Coke, Uncalcined and Calcined (Mixture).**

The material at 130° F or above must not be loaded in bulk on any vessel.

**§ 148.04–17 Petroleum Coke, Calcined, at 130° F or Above.**

(a) The requirements of this Part do not apply to bulk shipments of petroleum coke, calcined, on any vessel when the material is less than 130° F.

(b) The material must not be loaded in cargo vessels when temperatures exceed 225° F.

(c) Other hazardous materials must not be stowed in any hold adjacent to any other containing this material except as provided in paragraph (d) of this section.

(d) In holds over tanks containing fuel or material having a flashpoint under 200° F, a two-to-three foot layer of the material at a temperature not greater than 110° F must be first loaded into that hold. Only then may the material at 130° F or above be loaded into that hold.

(e) The loading of the material must be as follows:

(1) For shipments in holds over fuel tanks, the loading of the two-to-three foot layer of the material at a temperature not greater than 110° F (as required by paragraph (d) of this section) in these holds must be completed prior to the loading of the material at 130° F or above in any hold of the vessel.

(2) Upon completion of the loading described in paragraph (e)(1) of this section, a two-to-three foot layer of the material at 130° F or above must first be loaded in each hold (including those holds, if any, already containing a layer of the material at a temperature not greater than 110° F) in which the material is to be loaded in accordance with this section.

(3) Upon the completion of the loading of the two-to-three-foot layer of the material at 130° F or above in each hold, as required in paragraph (e)(2) of this section, the normal loading of the material at 130° F or above may proceed to completion.

(f) Personnel must be warned by the Master of the vessel or his authorized representative that calcined petroleum coke loaded and transported under the terms of this section is hot and that injury due to burns is possible.

**§ 148.04–19 Tankage, Garbage or Rough Ammoniate, Solid.**

(a) The material must contain at least 7 percent moisture by weight.

(b) The material must not be loaded if the temperature in the material, before loading, exceeds 100° F.

**§ 148.04–20 Sulfur.**

(a) When sulfur is loaded in a deep hold with general cargo in the 'tween deck hold above the sulfur, a dust proof wooden bulkhead enclosure must be built in the hatchways from the over deck of the lower hold to the weather deck forming a tight enclosure capable of preventing sulfur dust from entering the 'tween decks during loading.

(b) Ceiling must be made tight to prevent sulfur dust from entering the bilges; any chinking necessary in the way of tank tops or bilges must be made of noncombustible material.

(c) Cowl ventilators serving the hold into which sulfur is being loaded or discharged must be opened to provide circulation of air.

(d) No smoking is permitted on board the vessel and "No Smoking" signs must be conspicuously posted.

(e) If a metal chute is used it must be grounded using a flexible cable.

(f) Upon completion of loading, the sulfur must be leveled off. Any decks, bulkheads, or overheads containing sulfur dust must be swept clean or washed down.

(g) Other cargo, which is oxygen bearing, must not be stowed in the same hold with sulfur.

(h) An oxygen breathing apparatus, or proper gas mask, must be made available.

(i) A fire hose, preferably supplied with fresh water from a shore supply source, must be available at each hatch through which sulfur is being loaded.

**§ 148.04–21 Coconut Meal Pellets (also known as Copra Pellets).**

(a) Coconut meal pellets:

(1) Must contain at least 6 percent and not more than 13 percent moisture and not more than 10 percent residual fat contents;

(2) Must not be loaded if the temperature exceeds 120° F;

(3) Must not be stowed within 4 feet of any bulkheads subject to artificial heat; and

(4) Must not be overstowed with any other cargo.

(b) A clear space of at least 1 foot must be provided between the top of the cargo and underside of deck beams.

*Effective date.* This Part becomes effective on June 30, 1976.

Dated: June 3, 1976.

O. W. SILER,
*Admiral, U.S. Coast Guard*
*Commandant.*

[FR Doc.76–16847 Filed 6–9–76;8:45 am]

# proposed rules

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 THE INTERIOR

### Fish and Wildlife Service

### [ 50 CFR Part 17 ]

### ENDANGERED AND THREATENED WILDLIFE AND PLANTS

### Proposed Endangered Status for the Yellow-Shouldered Blackbird

The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to Sections 4 and 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543, 87 Stat. 884: hereinafter the Act), which would determine the Yellow-shouldered Blackbird (*Agelaius xanthomus*) to be an Endangered Species and which would determine Critical Habitat for that species. This species occurs on Puerto Rico and Mona Island.

#### BACKGROUND

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or man-made factors affecting its continued existence.

This authority has been delegated to the Director.

On June 1, 1975, the Service entered into a contract with the North Carolina Foundation for Mental Health, Inc., Raleigh, North Carolina, to investigate the status of the Yellow-shouldered Blackbird. A final report dated December 12, 1975, contained information indicating that the Yellow-shouldered Blackbird proposed herein was Endangered as provided for by the Act.

#### SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the Yellow-shouldered Blackbird are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Yellow-shouldered Blackbird nests and roosts in the coastal mangrove ecosystem, particularly on small off-shore cays. The natural integrity of this ecosystem within the species' range is rapidly altered or lost through development.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

3. *Disease or predation.* This is probably the most significant factor contributing to the current plight of the species.

The Shiny Cowbird (*Molothrus bonariensis*) invaded Puerto Rico from other antillean islands to the southeast in 1955. In 1957, it parasitized 74% of Yellow-shouldered Blackbird nests significantly lowering nesting success. Only 25% of parasitized nests produced any young, whereas 50% of unparasitized nests were productive.

Three introduced nest predators, the Black Rat (*Rattus rattus*), Norway Rat (*Rattus norvegicus*), and the Mongoose (*Herpestes javanicus*), destroy Yellow-shouldered Blackbird nests. As a result the blackbirds usually choose predator-free nest sites such as small mangrove islands and cactus or palm leaves.

Fowl Pox currently infects about 19% of the adult population.

In southwest Puerto Rico, the site of the major blackbird population, the annual adult mortality rate is about 31%, where annual production of adults is only about 10%, a low figure which may be largely attributed to nest parasites and predators. At these rates the bird may be expected to become extirpated there in about 5 years.

4. *The inadequacy of existing regulatory mechanisms.* There currently exists no regulations pertaining to the protection and conservation of this species.

5. *Other natural or man-made factors affecting its continued existence.* The use of broad spectrum rat poisons, such as alpha-chloralose, placed around monkey feeders on two monkey islands in southwest Puerto Rico has resulted in the death of some Yellow-shouldered Blackbirds which fed on the poison baits.

#### CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation", states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term critical habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765).

The areas delineated below do not necessarily include the entire critical habitat of the Yellow-shouldered Blackbird, and modifications to critical habitat descriptions may be proposed in the future. In accordance with Section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the critical habitat of the Yellow-shouldered Blackbird found within the areas delineated below.

It is recognized that some of the delineated areas are large and may contain man-made structures, settlements, and other localities that are not of primary use to the Yellow-shouldered Blackbird. It should be stressed, however, that this is only a proposed rulemaking that is setting forth the outer parameters of the critical habitat areas in question, and that based upon data received and additional studies conducted by the Fish and Wildlife Service, the final rulemaking may exclude areas found to be devoid of critical habitat significance.

Until the issuance of additional guidelines, all Federal departments and agencies should, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any actions which might reasonably be expected to affect critical habitat within the delineated areas.

#### CRITICAL HABITAT DETERMINATION

Based upon a contract study by Dr. Will Post of all known nesting areas of the subject species, Critical Habitat for the Yellow-shouldered Blackbird includes the following areas:

(i) *Mona Island.* Entire Island.

(ii) *Puerto Rico.* (a) An area of land, water, and airspace within Puerto Rico beginning at a point where the Quebrada Boqueron joins the Bahia de Boqueron; thence proceeding southwesterly along the coast to Cabo Rojo; thence eastward along the coast, including off-shore cays, to the point where highway 332 meets the Bahia de Guanica; thence northward on highway 332 to its junction with highway 116; thence westward on highway 116 to its junction with highway 305; thence westward on highway 305 to its junction with highway 303; thence northward on highway 303 to its junction with highway 101; thence westward on highway 101 to the point where it crosses Quebrada Boqueron; thence along Quebrada Boqueron to the point where it joins the Bahia de Boqueron.

(b) A circular area of land, water, and airspace with a one mile radius, the center being the junction of highways 360 and 102 in the town of San German.

(c) Roosevelt Roads Naval Station southeast of Ceiba.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. All of those prohibitions and exceptions also apply to any Threatened Species unless a Special Rule pertaining to that Threatened Species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered Species, are found at § 17.21 of Title 50 and; for the convenience of the reader, are reprinted below:

*§ 17.21 Prohibitions.*

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by livecapturing, and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

*Example.* A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section. Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

The determination set forth in these Proposed Rules and the proposal of critical habitat also would make the Yellow-shouldered Blackbird eligible for the consideration provided by section 7 of the Act.

The Director is preparing, in consultation with the affected agencies, guidelines for Federal agencies for the application of section 7 of the Act. In the future, regulations will be published regarding section 7.

Regulations published in the FEDERAL REGISTER of September 26, 1975, (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened Species under certain circumstances. Such permits involving Endangered Species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Puerto Rico with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the Yellow-shouldered Blackbird;

(2) The location of and reasons why any habitat of the Yellow-shouldered Blackbird should or should not be determined to be "Critical Habitat" as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of the Yellow-shouldered Blackbird.

Final promulgation of the regulations on the Yellow-shouldered Blackbird will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species and International Activities, 1612 K Street, NW., Washington, D.C. 20240, may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments and other documents, preferably in triplicate to Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All relevant comments and materials received no later than August 9, 1976, will be considered. Comments and materials received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street, N.W., Washington, D.C.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

Dated: June 1, 1976.

LYNN A. GREENWALT,
*Director,*
*Fish and Wildlife Service.*

Accordingly it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11 by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

| Species | | Range | | | Status | When listed | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | Population | Known distribution | Portion of range where threatened or endangered | | | |
| BIRDS | | | | | | | |
| Blackbird, Yellow-shouldered. | *Agelaius xanthomus.* | Not applicable. | Puerto Rico and Mona Island. | Entire | E | | Not applicable. |

2. It is further proposed to add a new § 17.87 as follows:

§ 17.87 Yellow-shouldered blackbird.

(a) The following area is Critical Habitat for the Yellow-shouldered Blackbird (*Agelaius xanthomus*):

(1) *Mona Island.* Entire Island.

(2) *Puerto Rico.* (i) An area of land, water, and airspace within Puerto Rico beginning at a point where the Quebrada Boqueron joins the Bahia de Boqueron; thence proceeding southwesterly along the coast to Cabo Rojo; thence eastward along the coast; including off-shore cays, to the point where highway 332 meets the Bahia de Guanica; thence northward on highway 332 to its junction with highway 116; thence westward on highway 116 to its junction with highway 305; thence westward on highway 305 to its junction with highway 303; thence northward on highway 303 to its junction with highway 101; thence westward on highway 101 to the point where it crosses Quebrada Boqueron; thence along Quebrada Boqueron to the point where it joins the Bahia de Boqueron.

(ii) A circular area of land, water, and airspace with a one mile radius, the center being the junction of highways 360 and 102 in the town of San German.

(iii) Roosevelt Roads Naval Station southeast of Ceiba.

[FR Doc.76-16862 Filed 6-9-76;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 958 ]

[Docket No. AO-283-A2]

### ONIONS GROWN IN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

### Recommended Decision and Opportunity To File Written Exceptions to Proposed Further Amendment of Marketing Agreement and Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed further amendment of the marketing agreement, as amended, and Order No. 958, as amended (7 CFR Part 958) regulating the handling of onions grown in designated counties in Idaho and Malheur County, Oregon.

Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by June 25, 1976. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

This notice is issued 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).

*Preliminary statement.* This proposed amendment of the marketing agreement, as amended, and order, as amended, was formulated on the record of a public hearing held at Parma, Idaho, April 14, 1976. Notice of the hearing was published in the March 23, 1976, issue of the FEDERAL REGISTER (41 FR 12040). The proposals contained in the notice were submitted by the Idaho-Eastern Oregon Onion Committee.

*Material issues.* The material issues of record are as follows:

(1) Amending § 958.47 *Research and development* to authorize production research;

(2) Providing for the receipt of voluntary contributions to finance research projects;

(3) Changing the time for submission to the Secretary of the annual budget of the committee's expenses for the fiscal period;

(4) Revising the basis for determining committee expenses and compensation;

(5) Revising the definition of onions to include the scientific name;

(6) Making such changes in the order as may be necessary to bring the entire order, as amended, into conformity with the amendatory action resulting from the hearing.

*Findings and conclusions.* The following findings and conclusions on the material issues are based on the record of the hearing:

(1) Section 958.47 of the order should be amended to authorize production research. Onion growers in Idaho-Eastern Oregon requested of the Secretary that the marketing agreement and order (hereinafter in the text of Findings and conclusions collectively referred to as the "order") be amended to provide for production research in addition to marketing research and development projects.

Research on the production of onions in Idaho and Eastern Oregon is performed mainly by growers' associations and the agricultural schools in both States and currently is financed by several methods. The growers' associations use State taxing authorities to collect funds to be used for research. In addition, both Oregon State University and the University of Idaho finance onion research projects out of their regular budgets. In recent years, competition for research dollars has been strong in the agricultural community, with producers of different commodities advocating more emphasis on projects of particular interest to them. Expenditures for onion production research have been relatively stable in terms of total dollars. But with individual project costs rising due to inflationary factors, the quantity of research performed has declined.

However, the needs for research remain at a high level and must be met if the industry is to stay healthy and viable. The needs for research are reflected in an increasing incidence of cullage or shrink of onions as they go into storage from the field, while in storage, and when they are being graded and packed for market. During the past four years shrink has ranged from 17 to 27 percent, with the 27 percent factor in 1975 representing some 3,000 carlots of onions. This shrinkage affects the profitability of growing and handling onions from producer to consumer. The record evidence shows that it costs on the average $1,340 to grow an acre of onions in Malheur County, Oregon, and costs are increasing nearly every year as prices for fuel, seed, fertilizer and labor rise. Because of rising costs of production and a high rate of cullage, growers must receive ever higher prices if they are to stay in business. If production research results in reducing the shrink factor even moderately, substantial savings should accrue.

Low quality associated with production problems is also of concern to the shipper because it makes it difficult to deliver a product that is acceptable to customers in receiving markets. Poor quality onions in such markets often require price adjustments which in turn result in lost profits.

Proponents of incorporating production research authority in the order testified to the relationship of such research to the promotion activities carried out under the order. For some years the Idaho-Eastern Oregon industry has financed an advertising program designed to increase the demand for its onions. For such a program to be fruitful, it is essential that a good quality product be generally available. Production research can contribute directly to better quality and adequate supplies.

There are a number of cultural practices that affect the quality of onions, and a comprehensive program of research is needed to determine the best practices. Typical of the needs specified in the record are continuing research programs to evaluate the effectiveness of pesticides and herbicides. Fertilizer compounds and application rates as well as the use of irrigation have an impact on yields and the inherent quality of onions. The mechanization of harvesting requires mature onions; conditions that

contribute to maturity at harvest time need to be determined. Improvements in any and all of these areas should increase yields of better quality, longer keeping onions. As technological improvements occur, research will be required to adopt such improvements for use by the onion industry. Furthermore, because it is impossible to foresee all the needs at this time, production research projects should not be limited to the aforementioned projects. The committee should have broad and flexible authority for timely development of production research programs suitable to solving any problems that arise.

The marketing order committee and the growers believe that their objective of finding a solution to the production problems that have affected onion crops in the area during recent years can best be accomplished through a research program financed through the marketing order. The Act provides that an assessment can be levied on handlers for specific purposes including production research. With these added funds, the committee can make a substantial commitment to research. The production research activities would most likely be carried out by the two State universities. However, this would not rule out having private organizations or the committee itself conduct such research.

All proposals for research must be submitted to the Secretary for approval. Also, the committee should have the authority to appoint a subcommittee to guide the research approved by the full committee and the Secretary. The subcommittee should have the authority to make any necessary changes in the format of the research project as long as it does not change the original objectives. Any change that required a greater expenditure of funds would require committee and Departmental approval. Activity reports on research conducted should be issued by the committee annually, although interim reports on research projects may be issued. Reports should also be issued in writing or verbally by the organization conducting the research. All written reports should be provided to the Secretary and committee members as well as any other interested parties.

The record has demonstrated that a program of production research administered by the marketing order committee will have a positive effect upon the production and storage of Idaho-Eastern Oregon onions, thereby increasing returns to growers. In view thereof, it is concluded that the order should be amended to authorize production research.

Since authority for production research would be added to the order, a conforming change is necessary in paragraph (e) of § 958.25 *Duties*, by the addition of the word "production" before the word "handling." This would add the production activity to the types of research and service activities htat may be approved by the Secretary.

(2) A new § 958.46 should be added to the order to provide for the receipt of voluntary contributions to be used only for research and development projects. Record evidence indicates that research and market development projects for Idaho-Eastern Oregon onions directly benefit growers of that commodity, and secondarily benefit other groups and businesses whose interests are allied with the production and marketing of onions. These groups frequently desire to contribute resources to research and development projects and the order should provide that contributions may be accepted by the committee. It is important, however, that the committee have complete control over the use of any contributions, which must be free of any encumbrances by the donor.

(3) Paragraph (h) of § 958.25 *Duties* should be revised to require the committee to submit to the Secretary a budget of its proposed expenses together with a report thereon before each fiscal period begins. This paragraph originally provided that the budget be submitted at the beginning of each fiscal period. However, the proposed budget should be developed earlier in order that it can be reviewed and approved early enough so programs and activities of the committee can be carried out without interruption.

Such a change in committee duties would require a conforming change in § 958.41 *Budget* so it would state that prior to each fiscal period the committee shall prepare a budget of estimated income and expenditures.

(4) § 958.26 *Expenses and compensation* should be revised by providing that committee members and alternates be reimbursed for reasonable expenses incurred by them in the performance of their duties, while deleting the reference to receiving compensation at a rate not to exceed $10 a day. Experience gained in the administration of the order indicates that reimbursement for expenses such as meals and travel for committeemen and alternates is a proper and satisfactory arrangement. However, the committee has never provided for compensation and record evidence shows that the proviso is no longer appropriate.

(5) In § 958.5 *Onions*, the definition should be revised by making reference to the scientific name for onions, Allium cepa. In the original language of the order, the proper scientific name for onions was not included but it should now be referenced in the order to bring its usage into conformity with other Federal marketing orders. Allium is the genus which includes the many species like leeks and chives. When the genus allium is combined with the word cepa it creates a specific name which describes the onions that are grown in the production area. It is intended that the definition and the terms and provisioins of the order should apply specifically to onions as such commodity is recognized throughout the production area.

(6) Some of the amendatory actions included in this recommended decision require certain conforming changes be made so that the order, as amended, will be in conformity with those actions. Such changes (in paragraph (e) of § 958.25 *Duties;* and § 958.41 *Budget*) are discussed with the issues to which they are pertinent. All such changes should be incorporated in the recommended amendment of the order. In addition, paragraph (b)(5) of § 958.47 should be modified by changing the program designation from "USDA's Plentiful Foods Program" to "USDA's Food Marketing Alert or other similar programs." This would merely update the present program designation, and provide for any future changes, for this type of activity.

*Rulings on briefs of interested persons.* At the conclusion of the hearing, the Administrative Law Judge fixed April 30, 1976, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing. No briefs were filed.

*General findings.* Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of onions grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) The marketing agreement and order prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of onions grown in the production area; and

(6) All handling of onions grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or di-

rectly burdens, obstructs, or affects such commerce.

*Recommended amendment of the marketing agreement and order.* The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Revise § 958.5 to read as follows:

**§ 958.5 Onions.**

"Onions" means all varieties of Allium cepa, commonly known as onions, grown, or which may be grown in the production area.

2. Revise paragraphs (e) and (h) of § 958.25 to read as follows:

**§ 958.25 Duties.**

* * * * *

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping and marketing conditions with respect to onions and to engage in such research and service activity which relate to the production, handling or marketing of onions as may be approved by the Secretary.

* * * * *

(h) Prior to each fiscal period, to submit to the Secretary a budget of its proposed expenses for such fiscal period, together with a report thereon;

* * * * *

3. Revise § 958.26 to read as follows:

**§ 958.26 Expenses.**

Committee members and alternates when acting on committee business shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this part. However, at its discretion the committee may request the attendance of alternates at any or all meetings notwithstanding the expected or actual presence of the respective members.

4. Revise the first sentence of § 958.41 to read as follows:

**§ 958.41 Budget.**

Prior to each fiscal period, and as may be necessary thereafter the committee shall prepare a budget of estimated income and expenditures necessary for the administration of this part.

* * * * *

5. Add a new § 958.46 to read as follows:

**§ 958.46 Contributions.**

The committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 958.47. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use.

6. Amend § 958.47 to read as follows:

**§ 958.47 Research and development.**

(a) The committee with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development projects, and marketing promotion including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption or efficient production of onions. Any such project for the promotion and advertising of onions may utilize an identifying mark which shall be made available for use by all handlers in accordance with such terms and conditions as the committee with the approval of the Secretary, may prescribe. The expenses of such projects shall be paid from funds collected pursuant to § 958.42 or § 958.46.

(b) In recommending projects pursuant to this section the committee shall give consideration to the following:

(1) The expected supply of onions in relation to market requirements;

(2) The supply situation among competing areas and commodities;

(3) The anticipated benefits from such projects in relation to their costs;

(4) The need for marketing research with respect to any market development activity;

(5) The need for a coordinated effort with USDA's Food Marketing Alert or other similar programs.

(c) If the committee should conclude that a program of research or development should be undertaken, or continued, in any crop year, it shall submit the following for the approval of the Secretary:

(1) Its recommendations as to the funds to be obtained pursuant to § 958.42 or § 958.46;

(2) Its recommendation as to any research projects; and

(3) Its recommendation as to promotion activity and paid advertising.

(d) Upon conclusion of each activity, but at least annually, the committee shall summarize and report the results of such activity to its members and to the Secretary.

Signed at Washington, D.C., on June 7, 1976.

DONALD E. WILKINSON,
*Administrator.*

[FR Doc.76-16884 Filed 6-9-76;8:45 am]

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## Farmers Home Administration

## [7 CFR Part 1806]

[FmHA Instruction 426.1]

## REAL PROPERTY INSURANCE

### Proposed Revisions

Notice is hereby given that the Farmers Home Administration has under consideration the proposed revision of Subpart A of Part 1806, Title 7, Code of Federal Regulations (35 FR 17238, and amended at 37 FR 17051, 37 FR 2879, 37 FR 25499, as redesignated at 39 FR 17093, and amended at 40 FR 2420, 40 FR 10953). This revision will relieve the County Supervisor of the responsibility to check and monitor Farmer Program (FP) and section 502 Rural Housing (RH) borrower insurance accounts for adequate coverage after the loan has been outstanding for 1 year. Also included are editorial changes for clarity, but specifically, this revision will:

1. Relieve the County Supervisor of the responsibility for checking or monitoring to see that Farmer Programs (FP) or section 502 RH borrowers maintain adequate insurance coverage on their property after the loan has been outstanding for 1 year.

2. Authorize the County Supervisor to return the insurance policy or declaration page to Farmer Program and section 502 Rural Housing borrowers after the first year of the loan.

3. Limit authorization to pay insurance premiums by SF 1034, "Public Voucher for Purchases and Services Other Than Personal," for insurance on property securing a Farmer Program or section 502 Rural Housing loan to instances where unusual and severe hazards exist and insurance is necessary to protect the interests of the Government.

4. State the borower's and County Supervisor's responsibilities in cases of partial or total losses and damage to security property with or without adequate insurance coverage.

Interested persons are invited to submit written comments, suggestions, or objections to the Chief, Directives Management Branch, Farmers Home Administration, United States Department of Agriculture, Room No. 6316, South Building, Washington, D.C. 20250, on or before July 12, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch during regular business hours (8:15 a.m.-4:45 p.m.).

It is proposed that Subpart A of Part 1806 of the Code of Federal Regulations read as follows:

**Subpart A—Real Property Insurance**

Sec.

1806.1 General.
1806.2 Companies and policies.
1806.3 Coverage requirements.
1806.4 Examining and general servicing of insurance.
1806.5 Losses.
1806.6 Failure of borrower to provide insurance.
Exhibit A—Escrow agreement, real property insurance.
Exhibit B—Notice of expiration of insurance (for FP and section 502 RH borrowers).

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C 301; delegation of authority by the Sec. of Agri., 7 CFR § 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR § 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.

### Subpart A—Real Property Insurance

**§ 1806.1 General.**

(a) *Authority.* This Instruction prescribes the authorizations, methods, and procedures to be followed in obtaining and servicing property insurance on buildings and on owned or leased land securing the interest of the Farmers Home Administration (FmHA) in connection with Farmer Program (FP), Rural Housing (RH), Labor Housing

(LH), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Recreation Loans (RL), Other Real Estate (ORE), Soil and Water (SW), Timber Development (TD), and Land Conservation and Development (LCD) loans. For the purpose of this instruction, FP means direct and insured individual farm real estate, operating and emergency loans secured by real estate.

(b) *Borrower to furnish insurance.* The real estate mortgage executed by the borrower provides that he will furnish and continually maintain and pay for insurance on buildings situated or constructed on the property with companies, in amounts, and on terms and conditions satisfactory to the FmHA until the loan is repaid.

(c) *Borrower's selection of company.* The borrower may select the insurance company provided that the company and insurance policy comply with all the requirements set forth in this Instruction.

(d) *Responsibility.* The County Supervisor is responsible for taking all actions in connection with insurance as may be necessary to protect the security interest of the FmHA. Any unusual situation that may arise with respect to obtaining or servicing insurance should be referred to the State Director. The State Director will refer any questions of a legal nature to the Office of the General Counsel (OGC).

(e) *Use of Form FmHA 426–1, "Valuations of Buildings."* The minimum insurance required will be indicated in the appraisal report by the employee who makes the appraisal of property that includes insurable buildings. In the case where no real estate appraisal is required or the appraisal report does not indicate the minimum insurance coverage, Form FmHA 426–1 will be prepared by the County Supervisor. Reevaluation of the buildings will not be done on appraisal reports; however, when new buildings are constructed or values increase or decrease materially and reevaluation is necessary to properly reflect the buildings' security interest of the FmHA, the County Supervisor will prepare or revise Form FmHA 426–1 as appropriate. Changes made on an existing Form FmHA 426–1 will be dated and initialed. The reason for any deletion will be noted on the Form.

**§ 1806.2 Companies and policies.**

Property insurance policies or other evidence of insurance will be accepted from borrowers when the requirements outlined herein are complied with fully.

(a) *Companies.* It is desirable that companies be licensed to do business in the particular State or other jurisdiction where the property is located, or that they be otherwise authorized by law to transact business within such State or other jurisdiction (hereinafter called "State"). If the required insurance is not available locally at comparable rates from an insurance company licensed or otherwise authorized to do business in the State, insurance may be accepted from another company if (1) the OGC advises that policies issued by such company will not be rendered unenforceable by virtue of the company's failure to be licensed or otherwise authorized to transact business in the State and that the company is a legal entity which may be sued in the State where the insured property is located, and (2) the State Director determines that the company is reputable and financially sound. In making the above determinations, the State Director will consider all relevant available information such as that which may be obtained from financial statements, Best's Insurance Reports, State insurance authorities, and other lending institutions.

(b) *Insurance policies*—(1) *Standard policies.* If a standard fire insurance policy has been adopted for the State, it should be used unless State statutes exempt the company from the regulations requiring its use. The standard policy is one containing substantially the same standard provisions adopted or recommended by legislative action or by order of the supervisory insurance authorities of the State in which the security is located.

(2) *Other policies.* To be acceptable, any other insurance policies must conform to the requirements of this Instruction.

(i) "Homeowner's" policies, "All Physical Loss" policies, "Broad Form" policies, and other such all-inclusive policies are acceptable if they otherwise meet the requirements of this Instruction.

(ii) A builder's risk policy naming the borrower as the insured or a builder's risk endorsement for a policy issued to the borrower may be accepted during the period a building is under construction if the policy otherwise meets the requirements of this Instruction. If such a policy or endorsement does not automatically convert to full coverage when the building is completed, acceptable insurance must be obtained simultaneously with the expiration of the builder's risk provisions of the policy.

(iii) A builder's risk insurance policy issued to a contractor only may not be substituted for the property insurance, the borrower is required to provide.

(iv) Borrowers eligible for insurance under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Act of 1973, will be serviced in accordance with FmHA Instruction 426.2.

(3) *State instructions.* If the State Director and the OGC consider it advisable, a State Instruction may be issued to help County Supervisors identify standard insurance policies adopted for the State. The Instruction should also furnish a guide to assist in identifying other acceptable insurance policy forms that are commonly used by insurance companies in the State, recognizing that such information is not all inclusive.

(4) *Binders.* Whenever there is a justifiable reason for not issuing a policy or endorsement, as required, a written binder will be acceptable for a period not to exceed 60 days from the effective date of the insurance. Form FmHA 426–7, "Insurance Binder," may be used in lieu of a standard binder form provided by the insurance company or agent. The written binder must have attached thereto the approved form of mortgage clause. Such a binder will be submitted to the County Supervisor in lieu of an insurance policy or endorsement and the insurance policy or endorsement will be submitted on or before the expiration date of the binder. The State Director, with the advice of the OGC and subject to prior approval of the National Office, may issue a State Instruction authorizing such binders to be accepted for periods longer than 60 days.

(5) *Submission of policies.* The original policy or declaration page must be delivered to the County Supervisor by the borrower, except that a certificate of insurance, a copy of the policy, or other evidence of insurance is acceptable for loans which are secured by other than first liens if the mortgage clauses include the names of prior mortgagees. For FP and section 502 RH loans, the County Supervisor will not retain the insurance policy or declaration page after the loan has been outstanding for 1 year. The County Supervisor will return the insurance policy of FP and Section 502 RH borrowers and notify each borrower by letter similar to Exhibit B of this Instruction of his continued liability to insure buildings securing FmHA loans against loss. The County Supervisor will not, however, be responsible for further checking or monitoring to see that a FP or section 502 RH borrower insures security property and will process a SF 1034, "Public Voucher for Purchases and Services other than Personal," to pay for insurance only in strict compliance with provisions of § 1806.6.

(6) *Master sets.* If the master sets meet all of the requirements of this Instruction they may be accepted in lieu of an original policy for each FmHA borrower.

(i) One complete master set of the different insurance forms for policies issued by the insurance company must be on file in each County Office where the company insures property of FmHA borrowers.

(ii) The "Declaration Page" furnished by the insurance company for each borrower insured, in lieu of a complete policy, will be filed in the borrower's case folder. When a "Declaration Page" in the form of a computer printout is used by an insurance company an endorsement on every policy issued by that company or a letter from that company will be obtained and attached to the printout. However, a letter signed by an authorized official of the company and addressed to the State Director may cover all policies issued by that company in the State. Any such endorsements or letters should clearly state that the company considers the printout to be an original "Declaration Page". Such endorsements or letters are not necessary if the printout itself clearly states that it is an original "Declaration Page."

(7) *Name and location.* The name or names of the assured in the policy must be readily identifiable as the owners of

the property being insured. If title is vested in the husband and wife, the policy should contain the names of both; however, if the policy, when issued, shows the name of only the husband, it will not be necessary to return it for correction. The location of the property should be described sufficiently to identify it. The complete legal description by metes and bounds of the property is not required.

(8) *Loss or damage covered.* Buildings must be insured against loss or damage by fire, lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke.

(9) *Effective date of insurance.* If there are insurable buildings located on the property, the borrower will arrange with his agent or company to have adequate insurance in force at the time the loan, assumption, or credit sale is closed so that the policy will properly insure the borrower and the mortgagees. When new buildings are erected or major improvements are made to existing buildings, such insurance will be made effective as of the date materials are delivered to the property. The County Supervisor will make no payments from loan funds for labor or materials until the borrower has furnished adequate insurance to protect the interest of the FmHA in the buildings being erected or improved.

(10) *Term.* The borrower will be required to furnish insurance for a term of at least one year with evidence that a full year's premium is paid. The term "premium" as used herein includes any assessments which may be charged to the borrower. If the assessments are of the type imposed only after a loss occurs involving property insured by the insurance company, then the borrower must present evidence (such as a letter from the company) that he currently does not owe any such assessments. The borrower may receive a discount for insuring for a longer period such as three years or five years and with an annual premium. If the insurance contains an automatic renewal clause, its provision should be substantially the following to be acceptable to FmHA:

> This policy will be automatically extended for successive terms at expiration of the original term and of each extension thereof, upon payment of renewal premiums.' It is a condition of this policy that if the policy expires or is canceled for nonpayment of premium, or for any other reason, the mortgagee will be given 10 days notice.

(11) *Mortgage clause.* The standard mortgage clause adopted by the State must be attached to or printed in the policy, or Form FmHA 426–2, "Property Insurance Mortgage Clause (Without Contribution)," must be attached to or the provisions thereof printed in the policy. A letter signed by an authorized official of an insurance company to the State Director, stating that all insurance policies the company issues in the State and in which the FmHA has a mortgage interest incorporates all of the provisions of Form FmHA 426–2 may be accepted in lieu of attaching Form FmHA 426–2 to each policy. If such a blanket letter is used, the FmHA will be named in the loss payable clause and a State Instruction will be issued, after prior approval is obtained from the National Office, authorizing the use of such method.

(i) If the use of a mortgage clause, other than the standard mortgage clause (without contribution), has been made mandatory by State laws or insurance regulations, a State Instruction will be issued, after prior approval is obtained from the National Office, authorizing the use of such a form.

(ii) When an approved mortgage clause is printed in the policy a "Loss Payable Clause" is acceptable provided the FmHA, as mortgagee, would receive payment in case of loss even though the company would not be liable to the borrower. A "Loss Payable Clause" which contains the statement that the mortgagee is "subject to all terms and conditions of the policy" is not acceptable.

(iii) Whenever a new mortgage clause including the interest of the FmHA is issued after the policy has been in force, the new mortgage clause must be signed by an authorized agent or officer of the company that issued the policy. Form FmHA 426–6, "Transmittal of Property Insurance Mortgage Clause," may be used to transmit the mortgage clause to the insurance official.

(iv) The FmHA and all other mortgagees whose interests are insured by the policy will be shown either in the mortgage clause or in the "Declaration Page" in the order of priority of their mortgages.

(A) "United States of America (Farmers Home Administration)" will be named in the mortgage clause for direct and insured loan mortgages naming FmHA as mortgagee, whether in its own right or as trustee under a 2(f) or other agreement with a State Rural Rehabilitation Corporation.

(B) "United States of America (Farmers Home Administration), as first mortgagee or as statutory agent and insurer of such mortgagee," will be named in the mortgage clause for insured FO mortgages naming the lender as mortgagee, whether the mortgage is held by the original or a subsequent lender or by the insurance fund or by FmHA under a trust agreement or declaration of trust.

(C) If the designation is not identical to that set forth in paragraph 1806.2(b)(11)(iv) (A) or (B) of this section, whichever is applicable, it will be sufficient if the mortgagee is readily identifiable as the Farmers Home Administration.

(c) *Evidence of premium payment.* (1) When Form FmHA 426–2 is attached to or the provisions thereof are printed in the policy, or a blanket letter from an insurance company incorporating the provisions of Form FmHA 426–2 in all policies in which the FmHA has a mortgagee interest is in effect in accordance with paragraph (b)(11) of this section, no evidence of premium or assessment payment is required except for the first year.

(2) When a mortgage clause requires the mortgagee to pay the premium if the insured does not, the borrower will be required to furnish, with the policy, proper evidence that the premium has been paid for the full term of the policy, unless a State Instruction has been issued in accordance with paragraph (c)(3) of this section or an exception is otherwise authorized by the National Office. The evidence of a premium payment may be (i) a receipt, (ii) the policy or bill for the premium stamped "Premium Paid," (iii) the endorsement renewing or continuing the policy stamped "Premium Paid," or (iv) a letter or statement signed by the agent or company stating that the premium has been paid. In case the policy is written by an assessment mutual insurance company on an annual assessment basis, proper evidence will accompany the policy to show that the most recent annual assessment has been paid.

(3) In those States in which laws or regulations do not permit the use of Form FmHA 426–2, the State Director may issue a State Instruction which sets forth the manner in which premium payment will be handled.

(d) *Policy restrictions.* (1) Any insurance on essential buildings as defined in § 1806.3 having restrictions which limit the amount of collectable insurance to less than FmHA requirements, generally must have such restrictions eliminated or modified to afford the required protection; otherwise, the policy usually will not be accepted. However, the restrictions may be acceptable if they meet the conditions set forth below (except for the clause described in subparagraph (iv) which is never acceptable).

(i) *Coinsurance Clause.* This clause generally provides that in consideration of a reduced rate, the borrower agrees to maintain insurance on his buildings up to a specified percentage (usually 80 percent) of their value and that the company will not be liable for a greater proportion of any partial loss than the amount of insurance bears to the specified percentage of either the undepreciated replacement value or the depreciated replacement value (actual cash value) of the buildings at the time of the loss. When the buildings are insured for the specified percentage of their value, the company, in the event of a partial loss, will be liable for the full amount of the loss not to exceed the amount of insurance. A coinsurance clause can be accepted only where the amount of insurance is at least equal to the specified percentage of either the undepreciated replacement value or the depreciated replacement value (actual cash value). For example, an 80 percent coinsurance clause can be accepted only where the amount of insurance on each insured building is at least equal to 80 percent of the appropriate replacement value of the insured building.

(ii) *Three-Fourths' Value Clause.* This clause provides that the liability of the company shall be limited to three-fourths of the depreciated replacement value of the buildings covered at the time of the loss, not to exceed the amount

of insurance. This clause may be accepted if the unpaid balance of the loan is not greater than three-fourths of the depreciated replacement value of the building and the amount of insurance is at least equal to the unpaid balance of the loan and any prior liens and no building is insured for more than three-fourths of its depreciated replacement value.

(iii) *Loss Deductible Clause.* This clause generally provides that loss to each building to the extent of the limitation is not recoverable. The company is liable only for loss to each building in excess of such limitation stated in the clause. This clause may be accepted where the limitation does not exceed $150, or one percent of the insurance coverage, whichever is greater. In no case, however, may the limitation on any one building exceed $300.00.

(iv) *Three-Fourths' Loss Clause.* This clause provides that the company will not pay more than three-fourths of any loss, nor more than three-fourths of the amount of insurance in force. This clause is never acceptable and must be eliminated.

(v) *Deferred Loss Payable Clause.* This clause provides that, if the amount payable under the policy for any loss to any building insured shall be in excess of a specified portion, (usually 60 percent) of the amount of insurance on such building, the company will withhold from its initial loss payment any sum in excess of the specified portion of the amount of insurance on such building. If the building sustaining such loss is repaired or replaced within six months from the date of the fire and at or within 300 feet of the original location, as described in the policy, the company upon receipt of evidence to that effect from the insured will pay the full balance withheld from the initial payment, provided the amount expended in repairing or replacing the building damaged or destroyed will equal or exceed the amount of loss as determined under the terms of the policy. Failure to repair or replace any insured building within the time and within the manner provided will constitute acceptance of the initial payment as full and final settlement under the policy with respect to the loss. This clause may be accepted if the amount of insurance is for the full depreciated replacement value (actual cash value) of the building and the unpaid balance of the loan and any prior lien(s) is not greater than the initial loss payment made by the company.

(vi) *Construction Specifications and Use Conditions.* If the insurance policy contains clauses which specify certain standards of construction or prescribes certain uses of the property for the insurance to be valid, the policy is acceptable only if the property meets such specifications or conditions at the time of acceptance. For example, if the policy provides that the chimney be constructed of a certain type of material, the County Supervisor should be assured that the required material has been used, or if the policy provides that farming operations are not carried out on the premises he should be assured that this condition is met.

(2) Policies generally will not be accepted if, under the terms of the policies or local laws, contributions or assessments may be made against the FmHA. However, policies which impose assessments on the borrower may be accepted only if the FmHA mortgage will be recorded prior to any failure of the borrower to pay any such assessments. Policies also will not be accepted if, by their terms or other conditions, loss payments are contingent upon action by the Board of Directors, the stockholders, or the members. The employment of an individual member(s) or director(s), for example, as appraisers or claims adjusters does not fall within this prohibition.

(e) *Buildings on leaseholds.* The policy will indicate that the insured is the lessee or tenant and not the owner of the buildings securing the FmHA loan; or, if he is the owner of the building on the leased land, the policy will indicate that the insured is the owner of the building, but not of the land. State Directors, with the advice of the OGC will issue State Instructions to meet any other special requirements needed to conform with the insurance requirements of the State to enable leaseholders to obtain property insurance for buildings which are security for FmHA loans.

**§ 1806.3 Coverage requirements.**

The County Supervisor should encourage the borrower for his own protection to insure for their depreciated replacement value (actual cash value) all essential buildings. Essential buildings include the dwelling and any other buildings that are necessary for the operation of the property or that provide income to assure orderly repayment of the loan. If insurance is for less that the depreciated replacement value of all essential buildings, the County Supervisor will see that the coverage is obtained on one or more of the most essential buildings. The minimum amount of coverage will be furnished as prescribed below:

(a) *Loans secured by a first lien.* (1) When the unpaid balance of the FmHA loan secured by a first lien is equal to or greater than the depreciated replacement value of the essential buildings, or the cost of adequate essential buildings which can be constructed for amounts less than the depreciated replacement value of the existing buildings, the essential buildings will be insured, to the nearest multiple of insurance that is available, for the lessor of (i) their depreciated replacement value, or (ii) the cost of constructing adequate essential buildings. For example, if insurance is available in only multiples of $1,000, the minimum insurance required on an essential building valued at $6,600 would be $7,000, and that required on an essential building valued at $6,400 would be $6,000.

(2) When the unpaid balance of the loan is less than the sum of the depreciated replacement value of the essential buildings to be insured, the total amount of insurance must be at least equal to the lesser of (i) the unpaid balance of the loan, or (ii) the cost of adequate essential buildings which can be constructed for amounts less than the depreciated replacement value of the existing buildings to be insured.

(3) When, by the use of loan funds or otherwise, buildings are erected or substantial improvements are made to essential buildings, the amount of insurance will be adjusted in accordance with paragraph (a) (1) or (2) of this section, whichever is applicable.

(b) *Loans secured by other than first liens.* The amount of insurance on buildings in the case of FmHA loans secured by other than a first lien will be the same as required in paragraph (a) of this section, with the understanding that the unpaid balance of the loan will be deemed for this purpose to be the amount of the total real estate mortgage indebtedness owed all prior mortgagees named in the mortgage clause, plus the debt to the FmHA which is secured by real estate mortgage.

(c) *Exception of buildings from insurance.* (1) Insurance will not be required on a building:

(i) That is not essential.

(ii) In such a state of disrepair that the cost of insurance would be prohibitive.

(iii) Which has a depreciated replacement value of $2,500 or less.

(iv) Which is being or has been repaired with a section 504 loan. Families receiving section 504 loans should be encouraged but not required to carry insurance on their home.

(v) On LH security property which was not built or repaired with FmHA loan funds provided that the State Director determines that the land and other structures adequately secure the FmHA loan and any prior liens.

(vi) On which the hazards are so slight because of the character and construction of the building, or the cost of the insurance is so high in comparison with the value of the building that, according to common standards of judgment, it should not be insured, including but not limited to windmills, silos, and fire-cured tobacco barns.

(vii) In cases where the unpaid balance of the FmHA loans and any prior liens have been reduced to $2,500 or less, property insurance need not be required if the borrower wants to discontinue it, provided the County Supervisor determines that the value of the land security itself is sufficient to protect the FmHA in its collection of the amount of the outstanding indebtedness.

(viii) If insurance for windstorm and hail to meet all FmHA requirements is not available in a hurricane area, the County Supervisor may accept from the borrower or applicant the windstorm and hail insurance policy that most nearly conforms to FmHA requirements. If such an exception is made, the situation should be fully documented in the borrower's case file. However, if the best

insurance policy a borrower or applicant can obtain at the time he receives a loan contains a loss deductible clause for windstorm and hail damage exceeding $250 or 10 percent of the actual cash value of the buildings, whichever amount is greater, the insurance policy, with an explanation of the reasons why more adequate insurance is not available will be submitted to the State Office for prior approval.

**§ 1806.4 Examining and general servicing of insurance.**

(a) *Examination by county office of policies, endorsements, binders, and other evidence of insurance.* Upon receipt in the County Office of a policy, endorsement, binder, or other evidence of insurance, submitted by a borrower, it will be examined promptly for compliance with the requirements of this Instruction. If the evidence of insurance is found to be acceptable, it will be placed in the borrower's case folder.

(1) *Unacceptable policies.* (i) When the borrower furnishes any policy or other evidence of insurance which does not meet the requirements of this Instruction such policy or other evidence of insurance will be returned to the borrower with the reasons why it is not acceptable.

(ii) If the borrower does not furnish acceptable insurance by the date the previous policy expired or was canceled, the County Supervisor will proceed as provided in § 1806.6.

(2) *Expiration records and notices.* After the insurance has been accepted, the expiration date will be inserted on Form FmHA 405–1, "Management System Card—Individual," or Form FmHA 405–5, "Management System Card—Individual (Rural Housing Only)," or Form FmHA 405–10, "Management System Card—Association or Organization," or Form FmHA 405–12, "Monthly Insurance Expirations," as provided in FmHA Instruction 405.1 for servicing the renewal of the insurance.

(i) In cases other than those involving FP or section 502 RH borrowers, the County Supervisor will notify the borrower of the expiration of his insurance at least 30 days in advance of such expiration unless he has received written evidence that the insurance has been renewed. Form FmHA 426–3, "Notice of Expiration of Insurance," may be used for this purpose.

(ii) FP and section 502 RH borrowers will be given notice in writing similar to Exhibit B, at least 30 days prior to expiration of the first premium installment regardless of whether the County Supervisor has received written evidence that the insurance has been renewed. Thereafter County Supervisor will not be required to further determine whether the borrower has adequately maintained insurance after the premium expiration period. If, however, further notice of expiration of insurance is received in the county office, the County Supervisor will forward another notice to the borrower similar to Exhibit B.

(3) *Release of mortgage interest.* When the borrower's loan has been paid in full and the satisfaction or release of the mortgage has been executed, the County Supervisor or his delegate will execute the following Release of Mortgage Interest on the mortgage clause attached to the policy or other evidence of insurance and transmit it with the policy or other evidence of insurance, the paid-in-full note, and the satisfaction to the borrower:

It is understood and agreed that the interest of the United States of America in the property insured hereunder ceased as of (Date of Final Payment), and that the Government shall have no interest in any loss or damage to such property occurring thereafter.

(4) *Lost or misplaced policies.* When an unexpired insurance policy or other evidence of insurance is lost or misplaced, it will be necessary to obtain a replacement policy or other evidence of insurance. The County Supervisor is authorized to sign a Lost Policy Receipt on behalf of the FmHA. For FP and section 502 RH loans, this paragraph applies only during the period the policy is retained in the County Office.

(5) *Disposition of expired and canceled policies.* An expired or canceled policy or other evidence of insurance will be returned to the borrower, unless (i) there is a loss settlement pending or, (ii) there has been a foreclosure sale or conveyance and the borrower's account has not been satisfied.

(b) *Special servicing of insurance.* (1) *Vacancy or unoccupancy—tenant occupancy—increased hazard.* If the County Supervisor has knowledge that insured property is vacant or unoccupied or that the ownership or occupancy has changed from owner to tenant, or that the hazards otherwise are increased, he will examine the policy to determine whether the policy permits such conditions. Unless the insurance permits such conditions, the County Supervisor will immediately notify the company or agent in writing. In any case where there is an additional premium due because of vacancy, unoccupancy, tenant occupancy, or other increased hazard, and upon demand to FmHA from the company or agent because the borrower cannot, or will not, pay the additional premium, it may be paid by Standard Form 1934, "Public Voucher for Purchases and Services Other than Personal," to the company or agent. For FP and Section 502 RH borrowers, Std. Form 1034, "Public Voucher," will not be used except in cases where an unusual and severe hazard exists and insurance is necessary to protect the interests of the Government.

(2) *Transfer of property.* (i) When a borrower or transferee requests the consent of FmHA to a transfer the security property which already has been made, or when the County Supervisor learns that any such transfer has been made, he will immediately inform the transferee that the mortgage requires the owner to provide and maintain adequate insurance acceptable to, and with loss payable to, FmHA as mortgagee. The transferee may obtain a new insurance policy or the transferor may have the insurance company or agent issue an endorsement to the current insurance policy changing the name of the assured to that of the transferee. If a new insurance policy is obtained, the old policy or other evidence of insurance will be returned to the transferor unless there is an unsettled loss. If there there is an unsettled loss, the policy or other evidence of insurance will not be returned until the claim has been settled. The County Supervisor, with the concurrence of the State Director and the OGC, will notify the borrower and transferee that acceptance of the new policy or endorsement will not constitute consent by the Government to the transfer even though the Government is protected by a loss payable clause in such an insurance policy.

(ii) In case of a transfer for which prior consent is requested insurance will be obtained as required in Subpart A of Part 1872 of this Chapter for a transfer case.

(3) *Voluntary conveyance of property to the government and foreclosure.* Insurance will not be carried on buildings which the Government has acquired. After a foreclosure sale has been held, or after a deed of conveyance to the Government in lieu of foreclosure has been filed for record, insurance will not be maintained by the Government (whether or not subject to redemption). Any insurance in force at the time the property is acquired will not be cancelled. However, renewal premiums will not be paid by the Government.

**§ 1806.5 Losses.**

(a) *Protecting property.* It is the responsibility of the borrower to immediately notify the County Supervisor and insurance company or agent of any loss or damage to insured property and collect the amount of the loss. When the County Supervisor learns of a loss to property which secures an FmHA loan, he will:

(1) Check the borrower's casefile for an insurance policy or other evidence of insurance. When a policy or other evidence of insurance has not been retained by the FmHA, such as for FP and section 502 RH borrowers, the County Supervisor will determine whether the property was insured and whether FmHA was named as mortgagee in the insurance policy.

(2) Determine that the borrower has taken such steps as are necessary to protect the interest of the FmHA in the security property against further damage. When serious problems arise with respect to protecting the property from further damage, the borrower cannot or will not arrange adequate protection for the property, or when legal action appears to be necessary, the County Supervisor will arrange for emergency protection and immediately refer the case with complete information to the State Director.

(b) *Loss covered by insurance.* (1) If the FmHA is listed as mortgagee in the

insurance policy, the County Supervisor will collect the amount of the loss and may consent to the borrower using funds to repair or replace damaged or destroyed property or to apply loss proceeds to his loan account or to any prior lien that might exist in order of their priority.

(2) If the FmHA is not listed as mortgagee in the insurance policy, the County Supervisor will contact the borrower to determine whether he has received the loss proceeds. If the borrower has received the loss proceeds but not yet paid for improvements to repair or replace the property, or has not received the loss proceeds the County Supervisor will:

(i) Notify the insurance company in writing of the FmHA's interest in the security property and request that the loss proceeds be made payable jointly to the FmHA and the borrower.

(ii) Inform the borrower of his responsibility for repairing or replacing the damaged or destroyed property or for authorized disposition of the loss proceeds as outlined in paragraph (b) (1) of this section.

(c) *Loss drafts—when loan is secured by a first mortgage.* (1) A loss draft which in the opinion of the County Supervisor represents a satisfactory adjustment of the loss will be endorsed immediately without recourse and deposited in a supervised bank account to be used in repairing or replacing the damaged building, except:

(i) Where the amount of the loss is $1,000 or less and the borrower will use the funds for repairing or replacing an essential building, the loss draft may be endorsed without recourse and given to the borrower upon satisfactory proof that the repairs or replacements have been made, or upon satisfactory assurance that the work will be performed.

(ii) When (A) the essential buildings are not to be repaired or replaced and other suitable buildings are not to be erected, or (B) a balance remains after all repairs, replacements, and other authorized disbursements have been made, such insurance funds will be applied on prior liens or as an extra payment to the borrower's loan accounts secured by the real estate or disposed of in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Subpart A of Part 1872 of this Chapter.

(iii) An insurance payment for loss or damage to a nonessential building the borrower voluntarily insured will be (A) released to the borrower unless his account is in default or (B) if the account is in default, disposed of as authorized by the State Director.

(iv) When the indebtedness secured by the insured property has been paid in full or the draft is in payment for loss of property on which the FmHA has no claim, a loss draft which includes the FmHA as a joint payee may be endorsed without recourse and deliver it to the borrower.

(d) *Loss drafts—When loan is secured by other than first mortgage.* (1) When the loss draft does not include the interest of a prior mortgagee, it will be processed as provided in paragraph (c) of this section.

(2) When the loss draft incudes the interest of a prior mortgagee, the County Supervisor is authorized to endorse and process the draft as follows:

(i) When the prior mortgagee will permit the use of such loss funds to repair or replace the damaged building, the draft may be endorsed without recourse upon satisfactory proof that the repairs or replacements have been made or upon satisfactory assurance that the work will be performed.

(ii) When the amount of the draft does not exceed the amount of the indebtedness then secured by the prior mortgage as stated in writing by the holder of the prior mortgage, and the holder of the prior mortgage has agreed in a written statement to the County Supervisor that he will apply such funds as a payment on the borrower's prior mortgage indebtedness, the draft may be endorsed without recourse.

(iii) When the amount of the draft exceeds the amount of the indebtedness then secured by the prior mortgage, as stated in writing by the holder, and he has agreed in writing to pay such indebtedness from the loss funds, the draft will be endorsed without recourse only after all parties named as payees in the draft have signed an agreement to deliver the draft "in escrow" to a bank acceptable to the named parties. The agreement will specify the manner in which the funds will be disbursed by the bank, as escrow agent, to the several mortgagees named in the draft. After the loss funds have been collected by the bank, it will issue cashier's checks in the manner prescribed in the escrow agreement (see Exhibit A for suggested form). If this procedure is found to be impractical in an individual instance, the State Director may authorize an alternative method for disbursing the loss funds to protect the Government's financial interest.

(iv) Drafts which have been endorsed by all other payees will be endorsed immediately without recourse. Such drafts or other loss funds will be processed in accordance with the methods described in paragraph (c) of this section.

(e) *Servicing insurance losses under special circumstances*—(1) *Foreclosures and voluntary conveyances.* Losses on properties in process of foreclosure or voluntary conveyance will be handled with the advice of the OGC. If the necessary cooperation of the borrower cannot be obtained, the State Director, with the advice of the OGC, will determine the proper action to be taken. To the extent feasible from a legal and practical standpoint, all loss payments should be received for a damaged or destroyed building and applied on the borrower's real estate indebtedness before title to the property is taken by the Government through foreclosure sale, voluntary conveyance, or otherwise, unless absolute assignment has been made by the borrower to the Government of all loss funds due from the insurance company.

(2) *Subrogation agreements.* When a company claims nonliability to the borrower and subrogation to the rights of the FmHA, the County Supervisor will forward a full report of the facts in the case to the State Director. The State Director will upon advice from OGC, instruct the County Supervisor regarding further action to be taken.

(f) *Repairs and replacements.* When any loss payments have been deposited in a supervised bank account, all repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in the same manner as improvements financed with loan funds.

(g) *Completing adjustment.* The borrower must complete the adjustment of the loss with the company or its authorized representatives. The County Supervisor, upon request of the borrower may consult with the borrower regarding the loss adjustment, but will not enter into negotiations with insurance adjusters or company representatives relative to the adjustment or settlement of losses on borrower property, or make any commitments, or sign any forms in connection with the adjustment of the loss. The FmHA will not waive any rights which it may have against the company except when the borrower's account or the FmHA claim has been paid-in-full.

(1) The County Supervisor will maintain a proper followup on all loses until satisfactory settlement has been made by the company.

(2) Where the County Supervisor has evidence that the adjustment agreed to by the borrower is significantly less than the amount of damage to which the borrower is entitled under the terms of the policy, the loss draft accompanied by a report will be sent to the State Director so that he may reopen the adjustment, if he considers it is in the interest of the FmHA to do so.

(3) When it appears evident that the amount of the loss is $1,000 or less, the County Supervisor may rely on estimates of contractors, building supply firms, reliable carpenters, or other evidence rather than personal inspection in determining whether the adjustment is equitable and the Government's interest is protected.

(h) *Reinstatement after loss.* In cases where insurance in the amount of the loss is not reinstated automatically by the provisions of the policy, it will be the responsibility of the County Supervisor to have the borrower reinstate as much of the insurance as may be necessary to fulfill the requirements of the FmHA.

(i) *Losses not covered by insurance.* When a loss occurs and insurance is not in force, the County Supervisor will:

(1) Inform the borrower that he has violated the security instrument by not providing insurance coverage and that it is his responsibility to make the needed replacements or repairs.

(2) If the borrower is unable or unwilling to make needed repairs or re-

placements from his own resources, the County Supervisor will submit complete information to the FmHA official authorized to determine whether FmHA will or will not continue with the loan. The County Supervisor's report will include recommendations on the following items:

(i) The advisability and possibility of making a subsequent loan to pay for needed repairs.

(ii) Subordination of the FmHA real estate lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) The possibility of the borrower obtaining funds secured by a junior lien from another source.

(iv) Whether an advance is needed to protect the Government's interest in the property.

(3) If the loan will not be continued with the borrower, it must be serviced in accordance with the applicable Instructions.

(4) If the borrower has improperly disposed of loss proceeds, the County Supervisor will refer the case with complete information and recommendations to the State Director. The State Director will consult the Regional Attorney when necessary and advise the County Supervisor as to appropriate servicing actions.

**§ 1806.6 Failure of borrower to provide insurance.**

When a borrower fails to provide and maintain acceptable property insurance, the County Supervisor will immediately make every effort to have the borrower provide with his own funds a policy acceptable to the FmHA. The County Supervisor will emphasize the borrower's responsibility to continue to provide and maintain proper insurance and that failure to do so is grounds for foreclosure. If a FP or section 502 RH borrower still fails to provide acceptable insurance, the County Supervisor will process a SF 1034 to pay for insurance in accordance with provisions of this paragraph, only in cases where unusual and severe hazard exists such as recurring forest fires or unstable ground conditions. Failure to provide insurance will be considered a nonmonetary default and the advice of the State Director will be obtained before foreclosure action is started. If a borrower indebted for any other type loan fails to provide acceptable insurance, the County Supervisor will take the following action:

(a) *Expired Policies.* (1) The County Supervisor will request the insurance agency or broker who issued the expired policy to issue a new policy which is acceptable to the FmHA.

(i) The new policy will be effective as of the date of the County Supervisor's contact with the insurance agency or broker or as soon thereafter as possible, and will be for a term of one year. If State insurance regulations require a longer term, the State Director will issue a State Instruction authorizing County Supervisors to obtain policies for the minimum period permitted by State insurance regulations.

(ii) The FmHA will be shown in the loss payable clause and in the mortgage clause in the proper order of priority.

(iii) Insurance coverage on each building usually will be the same as shown on the expired policy if it meets or exceeds FmHA requirements. If the coverage shown on the expired policy does not meet FmHA requirements, proper coverage will be obtained.

(iv) The County Supervisor will, if possible, have an automatic renewal provision included in the policy.

(v) If the borrower refuses to pay the insurance premium with his own funds or arrange with the agent for subsequent payment by premium note or otherwise, the County Supervisor will prepare and process Standard form 1034 in accordance with FmHA Instruction 322.1, to cover the amount of the insurance premium. The amount of the premium payment will be charged to the borrower's FmHA account with the highest lien priority as a recoverable cost item.

(vi) If the insurance agency or broker who issued the expired policy refuses to issue a new policy, the County Supervisor will have the borrower designate in writing another insurance agency or broker from whom the insurance can be obtained.

(vii) After the County Supervisor and the borrower exhaust all efforts to obtain acceptable insurance, the County Supervisor will request advice from the State Office as to companies issuing acceptable policies in the State and from which the borrower might be able to obtain an acceptable policy. If the borrower still cannot obtain an acceptable policy from any such company, and continuance of the account with the borrower is appropriate under § 1872.1(b) of Subpart A of Part 1872 of this Chapter, the County Supervisor will temporarily accept from the borrower the available insurance policy the County Supervisor determines most nearly conforms to the requirements of § 1806.2

(A) In making this determination, the following deficiencies become more objectionable in the order from (*1*) to (*5*) below:

(*1*) A policy written for an initial term of less than on year.

(*2*) A policy which will insure the most essential buildings but will not cover all essential buildings.

(*3*) A policy which covers major risks such as fire and lightning, but does not include one or more of the other risks specified in § 1806.2(8).

(*4*) A policy for a lesser amount of insurance than is required by § 1806.3.

(*5*) A policy that is issued by a company which is not licensed to do business in the State or otherwise does not meet the requirements of § 1806.3.

(B) Whenever adequate insurance becomes available, the County Supervisor will require the borrower to deliver to the County Office an acceptable insurance policy. The temporary policy will be returned to the borrower for cancellation after all losses claimed under the policy have been settled.

(C) If the borrower is unable to furnish a property insurance policy of any kind, he is still responsible for the debt in the event of loss.

(D) If the County Supervisor accepts an inadequate insurance policy under these conditions or the borrower fails to furnish any insurance policy, the County Supervisor will include in his report to the State Director an explanation of the efforts he and the borrower made to obtain acceptable insurance and his justification for accepting an inadequate policy, or for not obtaining an insurance policy of any kind.

(b) *Insurance canceled for reasons other than nonpayment of insurance premium.* (1) The County Supervisor, immediately upon receipt of a 10-day notice of cancellation for a policy, will urge the borrower to provide acceptable insurance.

(2) If the borrower fails to provide acceptable insurance before the cancellation is effective, the County Supervisor will contact the insurance agency or broker who issued the insurance policy to determine the reasons for cancellation and, if possible, have the policy reinstated.

(3) If the insurance company will not reinstate the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another agency or broker in accordance with the provisions of paragraph (a) of this section.

(c) *Insurance canceled for nonpayment of premium.* (1) The County Supervisor, immediately upon receiving a 10-day cancellation notice for a policy, will, if possible, contact the borrower in an effort to have him pay the insurance premium from his own funds or arrange with the agent for subsequent payment by premium note, or otherwise.

(2) If the borrower does not pay or arrange to pay the premium before the policy cancellation is effective, the County Supervisor will, before the cancellation becomes effective, notify the insurance company or broker by certified mail (return receipt requested), that the FmHA as mortgagee (or trustee) will pay the premium for one year to continue the policy in effect for that period. The County Supervisor will then prepare and process Standard Form 1034 to cover the amount of the premium for a period of one year. The amount of the premium will be charged to the borrower's loan account as a recoverable cost item.

(3) If a property insurance mortgage clause other than Form FmHA 426-2 is used in connection with the policy and the insurance company or broker refuses to accept payment from the FmHA in this manner to reinstate or continue the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another insurance company or broker in accordance with the provisions of paragraph (a) of this section.

EXHIBIT A—ESCROW AGREEMENT REAL PROPERTY INSURANCE

Date _____

_____
(name of bank)

_____
(city or town)

_____
(State)

Gentlemen: Attached is Draft No. _____, for $_____, issued by the _____ Insurance Company in payment of _____ loss which damaged the buildings on the farm of _____, of _____ County, State of _____.

This draft has been endorsed by the undersigned payees who request that you collect these funds and issue cashier's checks to the following payees for the following amounts:

_____, First Mortgage $_____
_____, Second Mortgage $_____
_____, Third Mortgage $_____

The balance only, if any, will be paid to _____, the owner of the property.

_____
First Mortgagee

_____
Second Mortgagee

_____
Third Mortgagee

_____
Owner

EXHIBIT B—NOTICE OF EXPIRATION OF INSURANCE (FOR FP AND SECTION 502 RH BORROWERS)

DATE_____

_____
(name)

_____
(address)

Dear _____: This will advise that the property insurance on your dwelling and other essential buildings will expire on (date). Although the FmHA will no longer require that your original policy or other evidence of insurance be retained in your County Office file, this does not in any way lessen your responsibility to the Government.

The real estate mortgage which you signed at the time the loan was made requires that you continually maintain property insurance in amounts and on terms and conditions satisfactory to the FmHA until the loan is repaid. Failure to provide such insurance and list FmHA on the policy as mortgagee violates the conditions listed in the security instrument you signed when you received your loan. This may result in the FmHA having to take action necessary to protect its interest in your property.

Sincerely,

County Supervisor.

Dated June 4, 1976.

FRANK B. ELLIOTT,
*Administrator,*
*Farmers Home Administration.*

[FR Doc.76-16797 Filed 6-9-76;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

### [ 24 CFR Part 1917 ]

[Docket No. FI-2021]

### APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Proposed Flood Elevation Determination for the Borough of Cleona, Lebanon County, Pa.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Cleona, Lebanon County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Cleona National Bank, 421 East Penn Avenue, Cleona.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Mark Wolfe, Garfield and East Penn Avenues, Cleona, Pennsylvania 17042. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width in feet from bank of stream to 100-yr flood boundary facing downstream | |
|---|---|---|---|---|
| | | | Left | Right |
| Quittapahilla Creek | Eastern corporate limit and Dairy Rd. | 420 | | 220 |
| | Garfield Rd. | 427 | | 330 |
| | Western corporate limit | 423 | | 440 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: May 24, 1976.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.76-16758 Filed 6-9-76;8:45 am]

### [ 24 CFR Part 1917 ]

[Docket No. FI-2020]

### APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Proposed Flood Elevation Determination for the Borough of Gilberton, Schuylkill County, Pa.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Gilberton, Schuylkill County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the home of Mayor Ed Pautienus, Maizeville/Gilberton, Pennsylvania 17934.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Ed Pautienus, Maizeville/Gilberton, Pennsylvania 17934. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width in feet from bank of stream to 100-yr flood boundary facing downstream | |
|---|---|---|---|---|
| | | | Left | Right |
| Mahanoy Creek | Corporate limits | 1,092 | 75 | 55 |
| | Island Rd. | 1,104 | 40 | 20 |
| | Bridge St. | 1,114 | 235 | 125 |
| | Reading RR | 1,115 | 45 | 40 |
| | Pottsville St. | 1,124 | 115 | 20 |
| | State Route 924 | 1,130 | 60 | 40 |
| | Church St. (extended) | 1,136 | 20 | 630 |
| | Quality Hill Rd. | 1,136 | 375 | 400 |
| | Corporate limits | 1,141 | 280 | 100 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 2974)

Issued: May 24, 1976.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.76–16757 Filed 6–9–76;8:45 am]

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## [ 24 CFR Part 1917 ]

[Docket No. FI–2019]

## APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Proposed Flood Elevation Determination for the City of Nanticoke, Luzerne County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Nanticoke, Luzerne County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Lobby of City Hall, 1 East Ridge Street, Nanticoke.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Frank J. Wadzinski, Mayor of Nanticoke, 1 East Ridge Street, Nanticock, Pennsylvania 18634. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width in feet from bank of stream to 100-yr flood boundary facing downstream | |
|---|---|---|---|---|
| | | | Left | Right |
| Susquehanna River | West corporate limits | 538 | 300 | (1) |
| | Private road (extended) | 540 | 270 | (1) |
| | Conrail Bridge | 541 | 2,550 | (1) |
| | Nanticoke Rd. Bridge | 541 | 2,610 | (1) |
| | East corporate limits | 541 | 1,970 | (1) |
| Newport Creek | Market Street Bridge | 542 | 30 | 30 |
| | West corporate limits | 561 | 110 | 20 |
| South branch, Newport Creek. | River Rd | 567 | 80 | 20 |

[1] Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: May 24, 1976.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.76–16756 Filed 6–9–76;8:45 am]

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## [ 24 CFR Part 1917 ]

[Docket No. FI–2018]

## APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Proposed Flood Elevation Determination for the Township of Plymouth, Luzerne County, Pa.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4 (a))) hereby gives notice of his proposed determinations of flood elevations for the Township of Plymouth, Luzerne County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that

are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Tilbury Volunteer Fire Company, Routes 11 and 29, West Nanticoke, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Nevin Balliet, Chairman of the Board of Supervisors of Plymouth, 28 Orchard Avenue, Tilbury Terrace, West Nanticoke, Pennsylvania 18634. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width in feet from bank of stream to 100-yr flood boundary facing downstream | |
|---|---|---|---|---|
| | | | Left | Right |
| Susquehanna River | Upstream corporate limits | 534 | (1) | (2) |
| | Erie-Lackawanna RR. (extended northwest). | 542 | (1) | 4,500 |
| | River Rd. Bridge | 542 | (1) | 400 |
| | Nanticoke Rd. Bridge | 541 | (1) | 140 |
| | Mill St. (extended southwest) | 539 | (1) | 1,500 |
| | Downstream corporate limits | 537 | (1) | 260 |
| Harveys Creek | Sullivan Trail | 539 | 1,400 | 1,800 |
| | Route 29 (river crossing) | | 180 | 20 |
| | Unnamed road | | (1) | 3 200 |

1 Outside corporate limits.
2 From bank to corporate limits.
3 From 100-year boundary to corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: May 24, 1976.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.76–16755 Filed 6–9–76;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### [ 33 CFR Part 110 ]

[CGD 76–39]

### PUGET SOUND AREA, WASHINGTON

### Proposed Anchorage Grounds

The Coast Guard is considering amending the anchorage regulations for the Puget Sound Area by establishing a general anchorage off Cherry Point, Washington. This anchorage is needed for vessels awaiting pier space and no anchorage ground exists in the vicinity. The establishment of this anchorage will enhance safety in this area.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commander, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 76–39), and give reasons for any recommended change in the proposal. Copies of all written comments will be available for examination by interested persons at the office of the Commander, Thirteenth Coast Guard District.

The Commander, Thirteenth Coast Guard district will forward all comments received before July 26, 1976, and his recommendation to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that a new paragraph (a)(14) be added to § 110.230 of Part 110 of Title 33 of the Code of Federal Regulations to read as follows:

§ 110.230 **Puget Sound Area, Washington.**

(a) * * *

(14) *Cherry Point General Anchorage.* The waters within a circular area with a radius of 0.8 nautical mile, having its center at latitude 48°48'30" N., longitude 122°46'00" W.

* * * * *

(Sec. 7, 38 Stat. 1053, as amended, sec. 6 (g)(1)(A), 80 Stat. 937; (33 U.S.C. 471), (49 U.S.C. 1655(g)(1)(A)); 49 CFR 1.46(c)(1), 33 CFR 1.05–1(c)(1).)

Dated: June 2, 1976.

D. J. RILEY,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine, Environment and Systems.*

[FR Doc.76–16846 Filed 6–9–76;8:45 am]

## Federal Aviation Administration

[Docket No. 76–NW–8–AD]

### [ 14 CFR Part 39 ]

### AIRWORTHINESS DIRECTIVES

### Boeing Model 727–100 Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Boeing Model B727–100 Series airplanes with deactivated static port heater circuits. There have been incidents of small amounts of water freezing in the deactivated heater assembly of the static port system in B727–100 Series airplanes with static port heaters deactivated in accordance with Boeing Service Bulletin 25–42, dated October 20, 1965, or Revision 1, dated March 4, 1968, that could result in the loss of altitude and airspeed reference vital to the safe operation of modern jet airplanes. Since this condition is likely to exist or develop in other B727–100 Series airplanes of the same type design, the proposed airworthiness directive would require either the reactivation of the static heater circuit or replacement of the deactivated heater assembly, Boeing P/N 10–60723–1, with elbow fitting MS21908D6 in conjunction with enlarging the static port sensing holes from .047" dia. to .125" dia.

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 docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Office of Regional Council, Attention: Airworthiness Rules Docket, 9010 East Marginal Way South, Seattle, Washington 98108. All communications received on or before August 1, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BOEING: Applies to Boeing Model 727–100 series airplanes certificated in all categories with static port heater circuits deactivated. Compliance required as indicated unless already accomplished.

To prevent the loss of altitude and airspeed reference due to a small amount of water freezing in the static port system, accomplish the following:

Within the next 500 hours time in service after the effective date of this AD, accomplish either of (1) or (2) below:

(1) Reactivate the static port heater circuits to the original FAA approved B727–100 configuration; or

(2) Replace the deactivated heater assembly, P/N 10–60723–1, with elbow fitting MS21908D6 in accordance wtih Boeing Serv-

ice Bulletin 727-34-95 (to be released) or later FAA approved service bulletins, and enlarge the static port sensing holes from .047" dia. to .125" dia. in accordance with Boeing Service Bulletin 727-34-94 (to be released) or later FAA approved service bulletins.

Equivalent modifications may be approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Wash., on May 26, 1976.

C. B. WALK, Jr.,
*Director, Northwest Region.*

[FR Doc.76-16489 Filed 6-9-76;8:45 am]

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## [ 14 CFR Part 39 ]

[Docket No. 15773]

## AIRWORTHINESS DIRECTIVES

### Dowty Rotol Type (c) R175/4-30-4/13E and (c) R212/4-30-4/22 Propellers

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to certain Dowty Rotol Type (c) R175/4-30-4/13E and (c) R212/4-30-4/22 propellers. These propellers are installed on Fokker Model F-27 and Hawker Siddeley Model 748 Series 2A airplanes. There have been reports of hub cracks on these propellers due to improper machining that could result in propeller failures. Since this condition is likely to exist or develop in other propellers of the same type design, the proposed airworthiness directive would require inspection and rework, if necessary, of the affected Dowty Rotol propellers.

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 docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW, Washington, D.C. 20591. All Comunications received on or before July 12, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

DOWTY ROTOL: Applies to Dowty Rotol Type (c) R175/4-30-4/13E and (c) R212/4-30-4/22 propellers having hub and driving center, P/N 601023166,, 601023223, or 601023227 modified to Dowty Rotol Mod. No. (c) VP2381 standard. These propellers are installed on, but not necessarily limited to, Fokker Model F-27 Mks. 100, 300, and 700 Series and Hawker Siddeley Model 748 Series 2A airplanes.

Compliance is required at the next propeller overhaul or within the next 4700 hours propeller time is service after the effective date of this AD, whichever occurs first, unless already accomplished.

To prevent cracking and possible failure of the hub driving center due to improper machining, accomplish the following:

(a) For Type (c) R175/4-30-4/13E propellers, that incorporate the following hub and driving center assemblies, rework the hub driving center to salvage scheme No. 640144020 in accordance with Paragraph 2A of Dowty Rotol Service Bulletin 61-857, dated February 3, 1975, or an equivalent approved in accordance with paragraph (c) of this AD:

HUB AND DRIVING CENTER ASSEMBLY SERIAL NUMBERS

| | |
|---|---|
| 175/58/67 | 175/58/146 |
| 175/58/72 | 175/59/184 |
| 175/58/91 | |

(b) For Type (c) R175/4-30-4/13E propellers that incorporate hub and driving center assemblies having serial numbers not listed in paragraph (a) of this AD and Type (c) R212/4-30-4/22 propellers—

(1) Inspect the hub driving center to verify correct machining in accordance with Paragraph 2B of Dowty Rotol Service Bulletin 61-857 dated February 3, 1975, or an equivalent approved in accordance with paragraph (c) of this AD; and

(2) If the hub driving center is found to have been incorrectly machined, rework it to salvage scheme no. 640144020 in accordance with Paragraph 2A of Dowty Rotol Service Bulletin 61-857, dated February 3, 1975, or an equivalent approved in accordance with paragraph (c) of this AD.

(c) The equivalent means of compliance specified in paragraphs (a) and (b) of this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa and Middle East Region c/o American Embassy, APO New York, N.Y. 09667.

Issued in Washington, D.C. on June 2, 1976.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.76-16633 Filed 6-9-76;8:45 am]

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## [ 14 CFR Part 39 ]

[Docket No. 15774]

## AIRWORTHINESS DIRECTIVES

### Dowty Rotol Type (c)R193/4-30-4/50, (c) R257/4-30-4/60, and (c)R184/4-30-4/50 Propellers

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Dowty Rotol Type (c)R193/4-30-4/50, (c)R257/4-30-4/60, and (c)R184/4-30-4/50 propellers. There have been reports of hub cracks on these propellers due to improper machining that could result in propeller failures. Since this condition is likely to exist or develop in other propellers of the same type design, the proposed airworthiness directive would require inspection and rework, if necessary, of the affected Dowty Rotol propellers.

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 docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before July 12, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

DOWTY ROTOL. Applies to Dowty Rotol Type (c)R193/4-30-4/50, (c) R257/4-30-4/60, and (c)R184/4-30-4/50 propellers having Hub Driving Centers, P/N 601026638, modified to Dowty Rotol Mod. No. (c) VP2486. These propellers are installed on, but not necessarily limited to, Fokker Model F-27, Fairchild Model FH-227 and Grumman Model G-159 Series airplanes.

NOTE.—Dowty Rotol Mod. No. (c) VP2486 is covered in Dowty Rotol Services Bulletin 61-573A dated June 1968, and the incorporation of the modification is required by AD 68-20-7.

Compliance is required at the next propeller overhaul or within the next 4,700 hours propeller time in service after the effective date of this AD, whichever occurs first, unless already accomplished.

To prevent cracking and possible failure of the hub driving center due to improper machining accomplish the following:

(a) For propellers that incorporate hub and driving center assemblies having the following serial numbers, rework the hub driving center to salvage scheme No. 640144000, in accordance with Dowty Rotol Service Bulletin 61-858, dated February 4, 1975, or an equivalent approved in accordance with paragraph (c) of this AD:

HUB AND DRIVING CENTER ASSEMBLY SERIAL NUMBERS

| *Serial No.* | *Propeller type* |
|---|---|
| 184/59/47 | R184/4-30-4/50 |
| 184/59/60 | R184/4-30-4/50 |
| 184/59/62 | R184/4-30-4/50 |
| 184/59/64 | R184/4-30-4/50 |
| 184/59/65 | R184/4-30-4/50 |
| 184/60/79 | R184/4-30-4/50 |
| 184/60/86 | R184/4-30-4/50 |
| 184/60/89 | R184/4-30-4/50 |
| 184/60/94 | R184/4-30-4/50 |
| 184/60/95 | R184/4-30-4/50 |
| 184/60/96 | R184/4-30-4/50 |
| 184/60/99 | R184/4-30-4/50 |
| 184/60/103 | R184/4-30-4/50 |

| Serial No. | Propeller type |
|---|---|
| 184/60/126 | R184/4-30-4/50 |
| 184/60/146 | R184/4-30-4/50 |
| 184/60/147 | R184/4-30-4/50 |
| 184/60/159 | R184/4-30-4/50 |
| 184/60/160 | R184/4-30-4/50 |
| DRG/10/61 | R184/4-30-4/50 |
| DRG/12/61 | R184/4-30-4/50 |
| DRG/14/61 | R184/4-30-4/50 |
| DRG/17/61 | R184/4-30-4/50 |
| DRG/20/61 | R184/4-30-4/50 |
| DRG/24/61 | R184/4-30-4/50 |
| DRG/25/61 | R184/4-30-4/50 |
| DRG/31/61 | R184/4-30-4/50 |
| DRG/38/61 | R184/4-30-4/50 |
| DRG/41/61 | R184/4-30-4/50 |
| DRG/43/61 | R184/4-30-4/50 |
| DRG/44/61 | R184/4-30-4/50 |
| DRG/48/61 | R184/4-30-4/50 |
| DRG/49/61 | R184/4-30-4/50 |
| DRG/58/61 | R184/4-30-4/50 |
| DRG/2/62 | R184/4-30-4/50 |
| DRG/9/62 | R184/4-30-4/50 |
| DRG/10/62 | R184/4-30-4/50 |
| DRG/11/62 | R184/4-30-4/50 |
| DRG/19/62 | R184/4-30-4/50 |
| DRG/31/62 | R184/4-30-4/50 |
| DRG/288/64 | R184/4-30-4/50 |
| DRG/290/64 | R184/4-30-4/50 |
| DRG/56/65 | R184/4-30-4/50 |
| DRG/116/65 | R184/4-30-4/50 |
| DRG/122/65 | R184/4-30-4/50 |
| DRG/152/65 | R184/4-30-4/50 |
| DRG/223/65 | R184/4-30-4/50 |
| DRG/224/65 | R184/4-30-4/50 |
| DRG/42/66 | R184/4-30-4/50 |
| DRG/122/66 | R184/4-30-4/50 |
| 193/58/11 | R193/4-30-4/50 |
| 193/58/17 | R193/4-30-4/50 |
| 193/58/27 | R193/4-30-4/50 |
| 193/58/38 | R193/4-30-4/50 |
| 193/59/116 | R193/4-30-4/50 |
| 193/59/119 | R193/4-30-4/50 |
| 193/60/150 | R193/4-30-4/50 |
| 193/60/151 | R193/4-30-4/50 |
| DRG/32/62 | R193/4-30-4/50 |
| DRG/119/66 | R193/4-30-4/50 |
| DRG/442/66 | R193/4-30-4/50 |
| DRG/131/66 | R257/4-30-4/60 |
| DRG/407/66 | R257/4-30-4/60 |
| DRG/408/66 | R257/4-30-4/60 |
| DRG/454/66 | R257/4-30-4/60 |
| DRG/28/67 | R257/4-30-4/60 |
| DRG/30/67 | R257/4-30-4/60 |
| DRG/86/67 | R257/4-30-4/60 |
| DRG/93/67 | R257/4-30-4/60 |
| DRG/95/67 | R257/4-30-4/60 |
| DRG/189/67 | R257/4-30-4/60 |
| DRG/194/67 | R257/4-30-4/60 |
| DRG/231/67 | R257/4-30-4/60 |
| DRG/233/67 | R257/4-30-4/60 |
| DRG/344/67 | R257/4-30-4/60 |
| DRG/345/67 | R257/4-30-4/60 |
| DRG/348/67 | R257/4-30-4/60 |

(b) For propellers that incorporate hub and driving center assemblies having serial numbers not listed in paragraph (a) of this AD, accomplish the following in accordance with Dowty Rotol Service Bulletin 61-858, dated February 4, 1975, or an equivalent approved in accordance with paragraph (c) of this AD:

(1) Inspect the hub driving center to verify correct machining.

(2) If the hub driving center is found to be incorrectly machined, rework the hub driving center to salvage scheme No. 640144000.

(c) The equivalent means of compliance specified in paragraphs (a) and (b) of this AD, must be approved by the Chief, Aircraft Certification Staff, FAA Europe, Africa and Middle East Region c/o American Embassy, APO New York, N.Y. 09667.

Issued in Washington, D.C. on June 2, 1976.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.76-16634 Filed 6-9-76;8:45 am]

## [ 14 CFR Part 71 ]

[Airspace Docket No. 76-GL-21]

## ALTERATION OF VOR AIRWAY

### Proposed Extension of VOR Airway

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend V-217 from Duluth, Minn., VORTAC to Winnipeg, Manitoba, VORTAC and realign V-129W between the Hibbing, Minn., VORTAC and the International Falls, Minn., VORTAC.

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 in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before July 12, 1976 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.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The proposed amendment would:

1. Extend V-217 from Duluth, Minn., via Hibbing, Minn.; Baudette, Minn.; to the intersection of the Baudette 313° T (306° M) and Winnipeg, Manitoba, 116° T (108° M) radials, excluding the portion within Canada.

2. Realign V-129W in part from Hibbing, Minn., via the intersection of the Hibbing 319° T (314° M) and International Falls, Minn., 182° T (176° M) radials; to International Falls.

These airway actions are necessary for air traffic control to better accommodate the increased number of flights between Hibbing, Minn., and Winnipeg, Manitoba.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on June 3, 1976.

WILLIAM E. BROADWATER,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.76-16635 Filed 6-9-76;8:45 am]

## Federal Highway Administration

## [ 23 CFR Part 640 ]

[FHWA Docket No. 76-8]

## CERTIFICATION ACCEPTANCE

### Advance Notice of Proposed Rulemaking

Section 117 ("Certification Acceptance") of Title 23, United States Code, provides for an alternative method by which the Secretary of Transportation may discharge his responsibilities for some sections of Title 23 on certain Federal-aid highway projects. Section 116 (a) of the Federal-Aid Highway Act of 1976, which was signed into law on May 5, amends section 117(a) of Title 23. The requirement that a State must have laws, regulations, directives and standards establishing requirements "at least equivalent to" those contained in Title 23 or issued pursuant thereto has been modified to require that a State must have laws, etc., "which will accomplish the policies and objectives" of Title 23 and regulations, directives, and standards issued pursuant thereto. It is anticipated that the Federal Highway Administration (FHWA) will implement this amendment to 23 U.S.C. 117(a) through revision of 23 CFR, Part 640, and the Federal-Aid Highway Program Manual, Volume 6, Chapter 5, section 2, "Interim Directive for Certification Acceptance."

In connection with the implementation of the subject amendment and in an effort to assure consideration of the views and opinions of all interested persons, the FHWA hereby invites the submission of such views and opinions, especially in the following area: Criteria and procedures pursuant to which the FHWA will be able to determine that "projects will be carried out in accordance with State laws, regulations, directives, and standards which will accomplish the policies and objectives contained in or issued pursuant to" Title 23, United States Code.

Data and comments on this advance notice of proposed rulemaking should be submitted in triplicate to the Federal Highway Administration, Department of Transportation, Room 4230, Docket No. 76-8, 400 7th Street, SW, Washington, D.C. 20590. All written communications received by July 26, 1976, will be considered before final action is taken on this proposal. Copies of comments received will be available for examination during normal business hours, 7:45 a.m. to 4:15 p.m., at the foregoing address.

This advance notice of proposed rulemaking is issued under the authority of 23 U.S.C. 315 and 49 CFR 1.48.

Issued: June 1, 1976.

NORBERT T. TIEMANN,
*Federal Highway Administrator.*

[FR Doc.76-16824 Filed 6-9-76;8:45 am]

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## National Highway Traffic Safety Administration

## [ 23 CFR Part 1204 ]

[Docket 75-2; Notice 3]

## HIGHWAY SAFETY PROGRAM STANDARDS

### Additional Public Meetings and Establishment of Evening Sessions

This notice announces that the National Highway Traffic Safety Administration (NHTSA) will hold five additional public meetings to receive public comments concerning a proposed revision of the highway safety program standards issued under the authority of the Highway Safety Act of 1966.

By notice of May 20, 1976 (41 FR 20705), the NHTSA announced that it would hold five public meetings to receive comments concerning a proposed revision of the highway safety program standards administered by the agency and to receive recommendations concerning new standards. The advance notice of proposed rulemaking which outlined the rationale and initial thoughts of the NHTSA on this subject was published in the FEDERAL REGISTER on January 22, 1976 (41 FR 3315).

In order to increase the opportunity for the public to comment on these proposals and to allow the NHTSA to benefit from the experience of the public in the area of highway safety, the NHTSA has decided to add five additional public meetings, each with an evening session from 6:00 p.m.–10:00 p.m. In addition, an evening session from 6:00 p.m.–10:00 p.m. will be added to the already scheduled meetings. The full schedule for the public meetings appears below:

Tuesday, June 15, 1976, Washington, D.C., Federal Aviation Administration Auditorium, 800 Independence Ave., S.W.

Tuesday, June 22, 1976, San Francisco, California, Room 13450, Federal Building, 450 Golden Gate Avenue.

Thursday, June 24, 1976, Denver, Colorada, Post Office Auditorium, 1823 Stout Street.

Tuesday, June 29, 1976, Atlanta, Georgia, Room 401, Georgia Department of Transportation Bldg., No. 2 Capitol Square.

Wednesday, June 30, 1976, New York City, Americana Hotel, Biarritz Room, 52nd Street & 7th Avenue.

Thursday, July 1, 1976, Kansas City, Missouri, Room 140, New Federal Office Bldg., 601 East 12th Street.

Wednesday, July 7, 1976, Seattle, Washington, New Federal Building, 4th Floor South Auditorium, Enter 915 Second Avenue.

Wednesday, July 7, 1976, Cambridge, Massachusetts, Transportation Systems Center Auditorium, 55 Broadway.

Friday, July 9, 1976, Chicago, Illinois, Ramada O'Hara Inn, Salon No. 1 Room, 6600 N. Mannheim, Des Plaines, Illinois.

Friday, July 9, 1976, Fort Worth, Texas, Hilton Inn, Astor Room, Interstate 20 and Commerce.

The meetings will be held from 9:00 a.m. to 12:00 p.m., from 1:30 p.m. to 4:00 p.m., and from 6:00 p.m. to 10:00 p.m.

The meetings will be informal in nature and will be conducted by a senior NHTSA official representing the Associate Administrator, Traffic Safety Programs (TSP).

All interested persons are invited to attend the meetings and to present oral or written comments concerning the proposed revision of the NHTSA standards. Persons making oral statements are encouraged to submit their comments in written form either at the meeting or by mail.

The sequence of speakers at each meeting will be based on the order of registration. Persons who wish an opportunity to speak are requested to register in advance of the meeting by notifying NHTSA of meeting date and city, and the approximate length of their presentation. Requests for advance registration are to be mailed to Docket No. 76-2, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590 or can be made by calling Mr. Len Tabor at (202) 426-9581. Further general information may also be obtained by calling this number.

The standards affected by the proposed revision are designated as follows:

Standard
No.
1. Periodic motor vehicle inspection.
2. Motor vehicle registration.
3. Motorcycle safety.
4. Driver education.
5. Driver licensing.
6. Codes and laws.
7. Traffic courts.
8. Alcohol in relation to highway safety.
10. Traffic records.
11. Emergency medical services.
14. Pedestrian safety (pedestrian-related aspects).
15. Police traffic services.
16. Debris hazard control and cleanup.
17. Pupil transportation safety.
18. Accident investigation and reporting.
Pedalcyclist Safety (Proposed Rulemaking, 41 FW 3317; January 22, 1976)

Persons who do not have access to the Code of Federal Regulations may obtain copies of the standards by writing to: Mr. Charles Livingston, Director, Office of Driver and Pedestrian Programs, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C., 20590.

The standards as currenty written require the States to implement specific countermeasurers, such as classified drivers' licenses, periodic motor vehicle inspection, and implied consent legislation. Since the standards were issued, experience and research have increased the agency's knowledge and insight into traffic crash countermeasures and performance specifications. Consequently, the revision process is designed to accomplish the following purposes:

1. Elimination of conflicts, inconsistencies, and duplication among the standards.

2. Incorporation into the standards of new techniques and countermeasures developed through research and empirical testing.

3. Increasing the performance orientation of the standards and their pertinence to crash reduction.

4. Improving the evaluation of the standard's effectiveness.

To further improve the standards, NHTSA is considering a new conceptual format. As pointed out in the January 22 notice, it appears that some standards are too narrow to deal with the specific and localized problems which a State may experience, and that the requirement to implement them across the board may not be appropriate in every instance.

NHTSA realizes that States need flexibility in their programming efforts and that the nature and magnitude of highway safety problems and programs vary between and within the States. There are, however, generally applicable national requirements which can successfully be applied in all States and lead to a uniformity and consistency of direction and purpose.

To accommodate the desire of the States for maximum flexibility in establishing the elements of their highway safety programs, while also satisfying the Congressional mandate for uniform standards, NHTSA is considering a new approach in revising the safety standards. The proposed standard format would be divided into two basic elements. The first element would consist of minimum performance requirements for all States, but would be considerably less comprehensive than previous highway safety program standards. The second element would consist of supplementary requirements. Each State would be required to undertake a highway safety program which includes second level activities based upon problems identified within the State. The specific activities carried out by a particular State would be determined cooperatively by the State and the NHTSA. In this way, a State would tailor a special program to most effectively meet the needs of highway safety in its own jurisdiction.

The concept of a bilevel standard is a new departure by the NHTSA, but is fully warranted by the growing sophistication of the States in analyzing and evaluating their highway safety problems and potential. Likewise, the role of the Federal Government as a resource upon whose expertise the States can draw rather than the architect of State and local programs is consistent with the concept of Federal-State partnership and the principles of management by objectives.

Issued on June 4, 1976.

(Pub. L. 89-564, 80 Stat. 731, 23 U.S.C. 401-406, as amended.)

FRED W. VETTER, Jr.,
*Associate Administrator*
*for Traffic Safety.*

[FR Doc.76-16906 Filed 6-8-76;8:45 am]

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**Federal Railroad Administration**

**[ 49 CFR Part 258 ]**

[Docket No. 76-01; Notice 1]

**REGULATIONS GOVERNING APPLICATIONS UNDER SECTION 505(a)(1) OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976**

*Correction*

In FR Doc. 76-15876 appearing on page 22220 in the issue of June 1, 1976 make the following corrections:

1. On page 22224 in column 3, the table of contents entry for § 258.17 should read: "Information requests."

2. On page 22225 in column 2 the 16th line of § 258.7(a)(C) should read: "streams must be provided; and an esti- * * *"

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**[ 49 CFR Part 260 ]**

[Docket No. 76-02; Notice 1]

**REGULATIONS GOVERNING SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976**

*Correction*

In FR Doc. 76-15877 appearing on page 22228 in the issue of June 1, 1976 make the following corrections:

1. On page 22229, column 1, the figure in line 2 should read: "2050.4."

2. In column 2 on page 22229 the section designation in paragraph C. should read: *"511(i)."*

3. In the 1st full paragraph on page 22230, the second word in the last line should read: "anniversary."

4. In the 3rd full paragraph on page 22230 the 4th word in the 4th line should read: "balance."

5. On page 22232 in column 2, paragraph (C) of § 260.7(a)(13) should read as follows:

"(C) Statement of the relationship of the project to proposed land use plans, policies, and controls of affected communities. Where such project is inconsistent with any such plans, policies, or controls the statement should describe and explain the reasons for such inconsistency in detail."

6. On page 22233 in column 1, paragraph (d) of § 260.9, the 2nd word in line 2 should read: "marked."

7. In § 260.9(u)(1) on page 22234, column 2, line 8, the second word should read: "designated."

8. On page 22235 in column 3, the section reference in the penultimate line of § 260.25 should read: "§ 260.29."

9. On page 22236 in column 2, the last sentence of § 260.29 should read as follows:

"Good cause may include, but is not limited to, insufficient capital resources of the recipient to comply with these maintenance standards or changes in the level of service required for any facility subject to this subpart."

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## SECURITIES AND EXCHANGE COMMISSION

**[ 17 CFR Parts 240, 249 ]**

[Release No. 34-12490; File No. S7-636]

**SECO BROKER-DEALERS FEES AND ASSESSMENTS**

**Proposal To Modify Fees and Fiscal Year 1976 Assessments for Nonmember (SECO) Broker-Dealers and To Change the SECO Fiscal Year From July 1 to October 1**

The Securities and Exchange Commission has announced a proposal to modify the fees and assessments payable to the Commission for fiscal year 1976 (July 1, 1975 to September 30, 1976) by registered broker-dealers who are not members of the National Association of Securities Dealers, Inc. ("nonmember" or "SECO" broker-dealers). The Commission also proposes to amend Rule 15b9-2 (17 CFR 240.15b9-2) to conform the SECO fiscal year to the new federal fiscal year, October 1-September 30. Accordingly, SECO charges for fiscal year 1976 will be based upon the fifteen month period from July 1, 1975 to September 30, 1976. As a result of this proposed change, the Commission has postponed the due date for filing Form SECO-4-76 from on or before June 1, 1976 to on or before September 1, 1976.

Sections 15(b)(7) and 15(b)(8) (15 U.S.C. 78o (b)(7) and (b)(8)) of the Securities Exchange Act of 1934 (the "Act"), as recently amended,[1] authorize the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed with respect to nonmember broker-dealers and their associated persons.[2] Pursuant to these sections, the Commission had adopted Rule 15b9-1 (17 CFR 240.15b9-1) to establish initial entry fees and Rule 15b9-2 to provide for annual assessments. This proposal concerns amendments to the special instructions to Form U-4 (formerly Form SECO-2) under Rule 15b9-1, which sets initial fees paid by SECO broker-dealers on behalf of new associated persons, and the adoption, pursuant to Rule 15b9-2, of new Form SECO-4-76 which establishes the levels for annual nonmember assessments for the current fiscal year.

The Commission has this year determined to modify the annual SECO assessment schedule to include a gross income levy, in order to mitigate possible inequities in the current assessment structure. At the present time there is no SECO levy directly related to the volume of business done by SECO firms; the main sources of SECO revenue are the fees and assessments related primarily to the number of securities personnel employed by each firm. As a result of the 1975 Amendments to the Federal securities laws, municipal securities broker-dealers now are required to register with the Commission as broker-dealers and, consequently, to become members of the National Association of Securities Dealers, Inc. ("NASD") or become subject to the SECO program of the Commission. A number of these firms have substantial gross income and relatively few assessable personnel and, because of the emphasis on personnel in the present dues structures, would, if within the SECO program, therefore absorb a substantially smaller share of the costs of regulation than other SECO firms. Also, certain other SECO firms with relatively low gross securities income but numerous assessable personnel may presently bear a disproportionately large share of the total SECO financial burden. (It is anticipated that total SECO regulatory costs will be approximately $623,208 in fiscal 1976 including, for reasons discussed later in this release, the three additional months of July through September 1976.) Accordingly, the Commission believes that a gross income assessment based upon securities revenue will produce a more equitable method of assessment and can be administered without undue burden on SECO firms or the Commission.

As a result of the introduction of the new gross income levy, it will be possible for the Commission to reduce certain other charges as indicated below.

*Proposed Initial Fees for Nonmember Broker-Dealers*

Rule 15b9-1 provides that every broker or dealer who becomes registered with the Commission and who does not make a bona fide application for membership to a registered securities association within 45 days of such registration must file with the Commission a Form U-4 on behalf of each associated person and pay to the Commission the fee prescribed by the form. This initial fee must also be paid each time an individual becomes associated with a SECO broker-dealer. The fee for fiscal year 1975 was $50; the reduced fee to be set forth on the proposed revised special instructions to Form U-4 would be $35.[3] The text of the proposed Special Instructions to Form U-4 is as follows:

SPECIAL INSTRUCTIONS FOR COMPLETING FORM U-4, UNIFORM APPLICATION FOR SECURITIES AND COMMODITIES INDUSTRY REPRESENTATIVE AND/OR AGENT

NON-MEMBER ("SECO") BROKER-DEALERS

1. Rule 15b8-1 under the Securities Exchange Act of 1934 ("Act") provides

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[1] The numbering of these sections was changed by the 1975 Amendments to the Securities Exchange Act of 1934 (Pub. L. 94-29 (June 4, 1975)); they were formerly Sections 15(b)(8) and 15(b)(9), respectively.

[2] SECO fees and assessments are in addition to any charges levied by the Municipal Securities Rulemaking Board.

[3] This fee is in addition to the fee required by the Commission pursuant to Rule 15b8-1 to defray the costs of administering the general securities examination and other expenses. This fee is presently $30.

that this Form must be filed by every broker or dealer registered under Sections 15 or 15B of the Act, who is not a member of a registered securities association (e.g., the National Association of Securities Dealers, Inc.) for every associated person engaged directly or indirectly in securities activities for or on behalf of such non-member broker or dealer, before such person engages in any activities on behalf of such broker or dealer unless such broker-dealer is qualified for an exemption from compliance with this Rule.

2. A filing fee of $35 must accompany this Form. A check should be made payable to the Securities and Exchange Commission and mailed with one (1) copy of this Form to the Office of the Comptroller.

3. Under Sections 15(b), 17(a) and 23 (a) of the Act and the rules and regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this Form from associated persons of non-member (SE CO) broker-dealers. Although it is not required that social security numbers be disclosed, such voluntary disclosure will assist the Commission in identifying applicants and in promptly processing the Forms. Information supplied on this Form shall be non-public but will be available to any person to whom the Commission authorizes disclosure in the public interest. Routine uses of Form U-4 are described on the reverse side of these Special Instructions.

4. A Form which is not prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. Acceptance of this Form, however, shall not constitute any finding that the information submitted is true, current, or complete. Intentional misstatements or omissions of fact may constitute federal criminal violations. (See 18 U.S.C. 1001 and 15 U.S.C. 78ff (a)).

5. Applicants should note the provisions of Sections 15(b) (7), (8) and (9) of the Securities Exchange Act of 1934 and the Rules thereunder.

Form SECO-5, setting an initial fee of $500 for new SECO broker-dealers, remains unchanged.

*Proposed Annual Assessments for Fiscal Year 1976*

The annual assessment for each fiscal year is set forth on Form SECO-4 for that year. As indicated above, the Commission has determined this year to amend the annual SECO assessment structure to provide for a .375% annual assessment, based upon the nonmember's gross annual over-the-counter securities income as shown on the firm's most recent Form X-17A-10 required to be on file with the Commission under the Act. Because of the change in the Commission's fiscal year from July 1 to October 1, the Commission must, for this year only, recover regulatory expenses for a 15-month period. Accordingly, this assessment would be based upon a 15-month period from July 1, 1975 to September 30, 1976. (The NASD's annual gross income levy is .3% for 12 months.) The basic membership assessment of $250 would be retained; however, the annual personnel assessment paid by each firm for each associated person would be reduced from $15 to $5.

Proposed Form SECO-4-76, which includes revised Special Instructions for computing and reporting gross income for assessment purposes, is as follows:

FORM SECO-4-76

INSTRUCTIONS

1. Rule 15b9-2 under the Securities Exchange Act (the "Act") provides that brokers or dealers registered with the Commission as of August 15, 1976 who were nonmember brokers or dealers for at least 45 days immediately prior to that date or who were nonmember brokers or dealers for at least 90 days during the period beginning July 1, 1975 and ending August 15, 1976 shall, on or before September 1, 1976 file Form SECO-4-76 and pay to the Commission a fee pursuant to Section 15(b)(8) of the Act to defray certain costs of regulation for the fiscal year ending September 30, 1976. The term "nonmember broker or dealer" is defined in paragraph (f)(2) of Rule 15b9-2.

2. Rule 15b9-2 provides that brokers or dealers who were nonmember brokers or dealers for less than 180 days during the period beginning July 1, 1975 and ending August 15, 1976 shall pay one-half the fees otherwise payable pursuant to Section 15(b)(8) for the fiscal year 1976.

3. Checks should be made payable to the "Securities and Exchange Commission" and mailed to the Office of the Comptroller, Securities and Exchange Commission, Washington, D.C. 20549.

4. If the space provided for any answer is insufficient, the complete answer should be prepared on a separate sheet which should be attached to the form and identified as "Answer to Item _____."

5. Failure to include or file information required to be reported or the making of any false statements may result in the institution of administrative or civil proceedings. Moreover, intentional misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense. (See 18 U.S.C. 1001 and Section 32(a) of the Act.)

6. Willful nonpayment of fees prescribed by the Commission pursuant to its authority under Section 15(b)(8) may result in the institution of disciplinary proceedings under Sections 15(b)(4) and 15(b)(5) of the Act.

7. Each SECO broker-dealer subject to Rule 15b9-2 is to report gross income from over-the-counter transactions in corporate, state, municipal and other securities for the preceding calendar year. Please refer to Table A or your firm's Form X-17A-10 filed for calendar year 1975 for assistance in computing such gross income. Gross income includes profits, commissions, surcharges, concessions, fees, allowances, discounts and reimbursements for expenses before the deduction of any expenses other than any commissions, concessions or other allowances paid to another member in connection with the execution or clearance of any transactions. Gross income does not include interest and dividends, transaction fees, commissions derived from transactions executed on a national securities exchange or a foreign securities exchange and fees received solely for investment advisory services. Also excluded are profits and losses derived from (1) transactions in which both the purchase and sale are executed outside the territorial limits of the United States, (2) transactions in exempted securities as defined in Section 3(a)(12) of the Act, (3) transactions in commercial bank time certificates of deposit and commercial paper, which is defined to include drafts, bills of exchange, and bankers acceptances having maturities at the time of issuance of not exceeding one year, and (4) transactions in securities which are clearly identified by the firm to be held specifically for investment purposes as described in Section 1236 of the Internal Revenue Code.

*Notice of Postponement of Due Date for Filing Form SECO-4-76 and Annual Assessments*

Broker-dealers filing Form SECO-4-76 and annual assessments should note that, because of the proposed amendments to the SECO assessment schedule and to Rule 15b9-2, the due date for SECO assessments will be September 1, 1976.

*Proposal to Amend Rule 15b9-2*

The Commission believes it is appropriate to conform the SECO fiscal year, which is presently July 1-June 30, to the new federal fiscal year, October 1-September 30. Accordingly, the Commission proposes to amend Rule 15b9-2 to reflect changes in the filing, payment and applicability dates resulting from the proposed new SECO fiscal year. The Commission also is proposing various technical amendments to the rule including clarifications of the usage of the terms "fee" (generally a non-periodic charge based upon the occurrence of a specific event) and "assessment" (a regular, annual levy) and deletions of several sections of the rule which are no longer applicable.

*Statutory Basis and Competitive Considerations*

These proposed modifications of fees and fiscal year 1976 assessments for nonmember (SECO) broker-dealers and amendments to Rule 15b9-2 would be adopted pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(b)(8), 15(b)(9), 17(a) and 23 (a) thereof. The Commission finds that any burden imposed upon competition by the proposed amendments is necessary and appropriate in furtherance of the purposes of the Act, particularly to im-

plement the Commission's continuing mandate under Section 15(b)(8) to collect such reasonable fees and charges as may be necessary to defray the costs of the specified regulatory duties required to be performed with respect to nonmember broker-dealers.

**ATTENTION**

The texts of the following proposed amendments are using ► ◄ arrows to indicate additions and [ ] brackets to indicate deletions.

*Text of Proposed Amendments to Rule 15b9–2*

Securities Exchange Act Rule 15b9–2 (Section 240.15b9–2) is proposed to be amended to read as follows (deletions appear in brackets; new material is indicated by arrows):

**§ 240.15b9–2. Annual ►Assessments◄ for registered brokers and dealers not members of a [national] ►registered◄ securities association.**

(a) *Applicability.* This rule shall apply to every nonmember broker or dealer who, on [May 15] ►August 15◄ of any particular year, has been a nonmember broker or dealer for a period of at least 45 days immediately prior to such date, and any other broker or dealer registered with the Commission on [May 15] ►August 15◄ of any particular year who has been a nonmember broker or dealer for a period of at least 90 days after [July 1] ►October 1◄ of the previous year.

(b) [Fees] ►*Assessments.*◄ On or before [June 1] ►September 1◄ of each year every broker or dealer to whom this rule applies shall file the Form SECO–4 provided for the particular fiscal year and pay the total [fees] ►assessments◄ prescribed by the form. Such [fees] ►assessments◄ shall include: (1) A base [fee] ►assessment◄ applicable to all brokers or dealers, and (2) a►n◄ [fee] ►assessment◄ for each associated person engaged, directly or indirectly, in securities activities for or on behalf of the broker or dealer prior to [May 15] ►August 15◄ during the fiscal year, at any time in which the broker or dealer was a nonmember broker or dealer: Provided, however, that the [fee] ►assessment◄ shall not be paid for any person who confines his securities activities to areas outside the United States, its territories and possessions, and who does not deal with or act for any U.S. resident or national wherever located.

(c) *Reductions.* Brokers or dealers who were nonmember brokers or dealers for less than 180 days shall pay one-half the [fees] ►assessments◄ required by this rule.

[(d) *Limitations.* In no case shall the total fees required by this rule exceed the limitation set each year on the Form SECO–4 provided for that particular fiscal year.]

[(e)] ►(d)◄ *Penalties.* Every broker or dealer who fails to pay [fees] ►assessments◄ as and when required by this rule shall pay an additional [fee] ►amount◄ of $100 to defray the administrative costs incurred as a result of such failure.

[(f)] ►(e)◄ *Exemptions.* A broker or dealer shall not be required to pay the [fees] ►assessments◄ required by this rule if:

(1) He has made a bona fide application for membership to a [national] registered securities association within 45 days of his becoming registered with the Commission as a broker or dealer and such application for membership is still pending on [May 15] ►August 15◄ of the particular year in which the [fees] ►assessments◄ are due; or

(2)(i) His application for membership in a registered [national] securities association has been denied or withdrawn, or his membership has been denied or withdrawn, or his membership has been terminated for any reason; (ii) he has immediately discontinued all securities activities; and (iii) he has filed Form BDW (Notice of Withdrawal From Registration) within 45 days after such denial, withdrawal, or termination; or

(3)(i) He is a member of a national securities exchange; (ii) he carries no accounts for customers; and (iii) his annual gross income derived from purchases [;] ►and◄ sales [and exchanges] of securities otherwise than on a national securities exchange of which he is a member is an amount no greater than $1,000. [Such a member of a national securities exchange shall, however, file the Form SECO–4 provided for the particular fiscal year.] Provided, however, that gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through another registered broker or dealer shall not be subject to such limitation.

[(g)] ►(f)◄ *Definitions.* For the purpose of this [section] ►rule◄:

(1) The term "associated person" shall mean any partner, officer, director, or branch manager of a broker or dealer (or any person occupying a similar status or performing similar functions), or any natural person directly or indirectly controlling or controlled by such broker or dealer (other than one whose functions are solely clerical or ministerial), and any broker or dealer conducting business as a sole proprietor.

(2) The term "nonmember broker or dealer" shall mean any broker or dealer, including a sole proprietor, registered under Section 15 ►or 15B◄[1] of the Act, who is not a member of a [national] ►registered◄ securities association [registered with the Commission under Section 15A of the Act].

[(3) The term "office" shall mean every place or establishment which is owned or controlled by a broker or dealer in or from which the broker or dealer engaged in the securities business. Every broker or dealer shall be deemed to have at least one office.]

*Request for Comments*

All interested persons are invited to submit their views and comments concerning the proposed modifications to the SECO fees and fiscal year 1976 assessments and the amendments to Rule 15b9–2. All communications should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than June 30, 1976. Reference should be made to File No. S7–636. All comments will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

MAY 28, 1976.

[FR Doc.76–16655 Filed 6–9–76;8:45 am]

[1] This change will become effective on July 5, 1976. See Securities Exchange Act Release No. 12468.

# notices

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

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 558-5; OPP-33000/414]

### NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

#### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, S.W., Washington, D.C. 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before Aug. 9, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Date: June 3, 1976.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

APPLICATION RECEIVED (OPP-33000/414)

EPA File Symbol 10373-T. All-Brite Sales Co., 2204 Haines St., Jacksonville FL 32206. MINT ODOR PLUS CLEANER, DISINFECTANT DEODORANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.00%; Isopropanol 400%; Methyl salicylate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 10373-A. All-Brite Sales Co. MINT ODOR CLEANER, DISINFECTANT DEODORANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA File Symbol 37982-E. All Pure Chemical Co., PO Box 268, Tracy CA 93476. CHLORINE GAS. Active Ingredients: Chlorine 100%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 36736-R. ARC Chemical Corp., PO Box 180, Slate Hill NY 10973. ETHYLENE OXIDE. Active Ingredients: Ethylene Oxide 100%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 3125-277. Chemagro Agricultural Div., Mobay Chemical Corp., PO Box 4913, Kanas City MO 64120. SENCOR. Active Ingredients: 4-Amino-6-(1,1-dimethylethyl) - 3-(methylithio),-1,2,4,-triazin-5-(4*H*)-one 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 34871-E. C. E. McMurdo Co., 7315 NE 27th Ave., PO Box 11081, Portland OR 97211. CEMCO #983. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene - (dimethyliminio)ethylenedichloride]30.0%. Method of Suport: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 7173-RUG. Chempar Chemical Co., Inc., 260 Madison Ave., New York NY 10016. CHEMPAR LINDANE TECHNICAL. Active Ingredients: Lindane (Gamma isomer of Benzene Hexachloride) 99.8%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 35934-E. Chemply, Inc., P.O. Box 18049, Elizabeth-Glassport Rd., Elizabeth PA 15037. SODIUM HYPOCHLORITE. Active Ingredients: Sodium Hypochlorite 10.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 100-523. Ciba-Geigy, PO Box 11422, Greensboro NC 27409. TOLBAN. Active Ingredients: Profluralin: N-(cyclopropylmethyl)-*α,α,α*,-trifluoro-2,6-dinitro - N-propyl-p-toluidine 43.6%; Related compounds 1.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA File Symbol 10810-A. Dacar Chemical Co., 1007 McCartney St., Pittsburgh PA 15220. DACARCIDE BLF. Active Ingredients: Dioctyl dimethyl ammonium chloride 10%; Ethyl alcohol 2%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 192-86. Dexol Industries, 1450 W. 228th St., Torrance CA 90501. DEXOL DE-SEED. Active Ingredients: Trifluralin (a,a,a,-Trifluoro-2,6-dinitro - N,N - dipropyl-p-toluidine) 5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 33660-R. I.PI.CI. Industria Prodotti Chimici S.p.A., Via Fratelli Beltrami 11, Novate Milanese-Italy 20026. U.S. Agent—Levy, Bivona, Cohen, Attys. at Law, 10 E. 40th St., New York, NY 10016. ATRAZINE TECHNICAL. Active Ingredients: atrazine (2-chloro-4-ethylamino-6-isopropyamino-s-triazine 96%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 37589-R. Eccon, Inc., 4785 N. E. 10 Ter., Ft. Lauderdale FL 33334. X-162. Active Ingredients: activated carbon 99.89%; silver (elemental) 0.11%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 17866–G. Industrial Maintenance Corp., 3520 Tryclan Dr., Charlotte NC 28210. IMCOR BA–107. Active Ingredients: Disodium cyanodithioimidocarbonate 4.23% Ethylenediamine 1.60%; Potassium N-methyldithiocarbamate 5.83%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 17866–U. Industrial Maintenance Corp. IMCOR BA–108. Active Ingredients: Disodium cyanodithioimidocarbonate 3.18%; Ethylenediamine 1.20%; Potassium N-methyldithiocarbamate 4.37%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 13186–L. Maintenance Research Laboratories, 11940 Grand River, Detroit MI 48204. VIKING MICRO SHEILD. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 37532–E. Mogul Maintenance Systems, Div. of The Mogul Corp., Pine & Mogul Sts., Chagrin Falls OH 44022. MOGUL-CIDE 256. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Dioctyl Dimethyl Ammonium Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride 1.875%; Alkyl (C14 50%, C12 40%, C16 10%) Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 33370–L. Morton Herman Co., Inc., 207 W. University Dr., Arlington Heights IL 60004. WHITE PINE-ODOR DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 35926–1. Mutual Hardware Corp., 5–45 49th Ave., Long Island City NY 11101. X-FOUL BOTTOM COAT-BLUE. Active Ingredients: tributyltin fluoride 11.43%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA File Symbol 13680–R. Ozark Chemical Co., PO Box 1348, Little Rock AK 72203. PEAK #470 SYNERGIZED PYRETHRIN OIL BASE INSECTICIDE. Active Ingredients: Pyrethrins 0.25%; Piperonyl butoxide, technical 0.50%; N-Octyl bicycloheptene dicarboximide 0.84%; Petroleum distillate 98.41%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 13680–U. Ozark Chemical Co. PEAK #464 WATER BASE PYRETHRIN INSECTICIDE. Active Ingredients: Pyrethrins 0.10%; Piperonyl butoxide, technical 0.20%; N-Octyl bicycloheptene dicarboximide 0.33%; Petroleum distillate 0.48%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 33955–235. Acme Div., PBI/Gordon Corp., 300 South St., Kansas City KS 66118. ACME EMO-NIK. Active Ingredients: Mineral Oil 80.00%; Nicotine Alkaloid 1.50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM17

EPA Reg. No. 11273–17. Sandoz, Inc., Crop Protection, PO Box 1489, Homestead FL 33030. ELCAR BIOLOGICAL INSECTICIDE. Active Ingredients: Polyhedral Inclusion Bodies of Heliothis Nuclear-Polyhedrosis Virus 0.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 11715–48. Speer Products, Inc., PO Box 9383, 105 S. Parkway, West, Memphis TN 38109. SPEER INDOOR PLANT SPRAY. Active Ingredients: Pyrethrins 0.02%; Rotenone 0.13%; Other Cube Resins 0.26%; Technical Piperonyl Butoxide 0.25%; Petroleum Distillate 0.08%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 11715–17. Speer Products, Inc., PO Box 9383, 105 S. Parkway, West, Memphis TN 38109. SPEER INDUSTRIAL INSECTICIDE. Active Ingredients: Pyrethrins 0.500%; Piperonyl Butoxide, Technical 4.000%; Petroleum Distillates 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 11350–11. Standard Paint & Varnish Co., PO Box 826, New Orleans LA 70058. MARINE COATINGS 639 ALUM-A-TOX ANTI-FOULING WHITE. Active Ingredients: Tributyltin Fluoride 7.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 11350–10. Standard Paint & Varnish Co. MARINE COATINGS 635 ALUM-A-TOX ANTI-FOULING BLUE. Active Ingredients: Tributyltin Flouride 7.42%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 11350–7. Standard Paint & Varnish Co. MARINE COATINGS BIKINI MUNEQUITA SPEED KOTE-NO-FOUL 14–AF 23 GREEN. Active Ingredients: Tributyltin Flouride 15.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 11350–6. Standard Paint & Varnish Co. MARINE COATINGS BIKINI MUNEQUITA SPEED KOTE-NO-FOUL 14–AF 22 BLUE. Active Ingredients: Tributyltin Flouride 15.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 11350–5. Standard Paint & Varnish Co. MARINE COATINGS BIKINI MUNEQUITA SPEED KOTE-NO-FOUL 14–AF 21 RED. Active Ingredients: Tributyltin Flouride 15.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 11350–4. Standard Paint & Varnish Co. MARINE COATINGS BIKINI MUNEQUITA SPEED KOTE NO-FOUL 14–AF 20 WHITE. Active Ingredients: Tributyltin Flouride 15.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA File Symbol 11474–ER. Sungro Chemical, Inc., PO Box 24632, Los Angeles CA 90024. SUNBUGGER SS SYSTEMIC INSECTICIDE. Active Ingredients: S-2(ethylsulfinyl) ethyl O,O-Dimethyl phosphorothioate 2.0%; Aromatic Petroleum Distillate 51.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA File Symbol 557–ROEE. Swift Agricultural Chemicals Corp., 111 W. Jackson Blvd., Chicago IL 60604. GOLDEN VIGORO WEED AND FEED. Active Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 0.22%; Dimethylamine salt of 2,4-dichlorophenoxycetic acid 0.48%; Dimethylamine salt of Dicamba (3,6-dichloro-anisic acid) 0.05%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 557–ROEG. Swift Agricultural Chemicals Corp., 111 W. Jackson Blvd., Chicago IL 60604. GOLDEN VIGORO WEED AND FEED FOR NORTHERN LAWNS. Active Ingredients: 2,4-dichlorophenoxyacetic acid 0.49%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.20%; Dicamba (3,6-dichloro-o-anisic acid) 0.04%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA Reg. No. 1386–563. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. UNICO LO V ESTER 33 WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-dichlorophenoxyacetic acid 55.80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1386–90. Universal Cooperatives, Inc. UNICO 2,4-D BUTYL ESTER WEED KILLER. Active Ingredients: Butyl ester of 2,4-dichlorophenoxyacetic acid 56.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1386–21. Universal Cooperatives, Inc. UNICO 2,4–D ESTER WEED KILLER. Active Ingredients: Butyl ester of 2,4-dichlorophenoxyacetic acid 47.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 34743–R. Wal-Ben Industries, Inc., Carrier Chemical Co. Div., 516 Chicopee St., Chicopee MA 01013. DU–WELL SO–CLEAR. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 37756–E. Water Safe Products, Inc., 8337 Nieman Rd., Lenexa KS 66214. RECHARGE PAK FOR INSTANT CLEAN CLEAN WATER MAKER. Active Ingredients: Metallic Silver 1.05%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 37062–R. Wechsler Contracting Co., Inc., 11 Bushnell Ave., Monticello NY 12701. SODIUM HYDOCHLORITE. Active Ingredients: Sodium Hypochlorite 12½%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

### Corrected Items

The following are corrections to the list of Applications Received previously published in the Federal Register.

EPA File Symbol 38089–R. Mid-West Chemical & Supply Inc., Columbus OH 43227. SUPER HI–CHLOR GRANULAR CHLORINATED SWIM POOL ALGAECIDE AND BACTERICIDE. (Originally published with incorrect product name) PM34 [41 FR 20914 (5/21/76)]

EPA File Symbol 37092–E. Syntech Products Corp., 4654 Vicksburg St., Sylvania OH 43560. TECH CIDE 1000. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene-(dimethyliminio)ethylene dichloride] 30% (Originally published with incorrect chemical name) PM34 [41 FR 20914 (5/21/76)]

[FR Doc.76–16768 Filed 6–9–76;8:45 am]

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[FRL 558–6; OPP–33000/413]

## NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the Federal Register (39 FR

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Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquires and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: May 27, 1976.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

APPLICATIONS RECEIVED (OPP—33000/413)

EPA File Symbol 10737-L. All-Brite Sales Co., 2204 Haines St., Jacksonville FL 32206. ODORLESS DISINFECTANT SANITIZER. Active Ingredients: Alkyl (C14 50%, C12, 40%, C16 10%) dimethylbenzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12015-RL. Allied Laboratories, Inc., 975 Lake Rd., Medina OH 44256. SPEEDEE—217. Active Ingredinets: Octyl decyl dimethyl ammonium chloride 1.250%; Dioctyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl ammino betaine 1.000%; Hydrogen chloride 8.000%; Alkyl—C8 7%, C10 8%, C12 46%, C14 24%, C16 10%, C18 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

FPA File Symbol 34429-R. American Chemical Corp., PO Box 296, Bayamon PR 00619. SUPER PINE. Active Ingredients: Pine Oil 65%; Soap 25%. Method of Support. Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 5736-LG. DuBois Chemicals, Div. of Chemed Corp., 3630 E. Kemper Rd., Sharonville OH 45241. GAX-15 MICROBIOCIDE. Active Ingredients: Sodium pentachlorophenate 25.3%; Sodium 2,4,5-trichlorophenate 3.5%; Sodium salts of other chlorophenois and related compounds 3.5%; 3-(3-methoxypropoxy)-1-propanol 10.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA 5736-LE. DuBois Chemicals. X-PERGE. Active Ingredients: Methylene Bis(thiocyanate) 1.86%; Bis(trichloromethyl) sulfone 7.84%; Bis(tributyltin) oxide 2.38%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 5736-LR. DuBois Chemicals, Div. of Chemed Corp., DuBois Tower, Cincinnati OH 45202. GAX-11. Active Ingredients: n-Alkyl (60% C14, 5% C12, 30% C14, 5% C18) Dimethyl Benzyl Ammonium Chloride 12.50%; Bis (Tri-n-Butyltin) Oxide 2.25%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA Reg. No. 3770-169. Economy Products Co., Inc., PO Box 427, Shenandoah IA 51601. FLOR-ADORN. Active Ingredients: trifluralin (a,a,a - trifluoro - 2,6-dinitro-N,N-dipropyl-p-toluidine) 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 3770-170. Economy Products Co., Inc. CLEAN GRASS & WEED CONTROL. Active Ingredients: trifluralin (a,a,a - trifluoro - 2,6 - dinitro - N,N-dipropyl-p-toluidine 1.47%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM 25

EPA Reg. No. 3770-194. Economy Products Co., Inc. ROSE ADORN. Active Ingredients: trifluralin (a,a,a,-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine) 0.114%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA File Symbol 3770-GER. Economy Products Co., Inc. PRESSURIZED FLY SPRAY. Active Ingredients: Butoxypolypropylene glycol 15.00%; Technical Methoxychlor 2.00%; Technical Piperonyl Butoxide 1.07%; Pyrethrins 0.17%; Mineral Oil 1.80%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA Reg. No. 1471-70. Elanco Products Co., Div. of Eli Lilly and Co., PO Box 1750, Indianapolis IN 46206. ELANCO TRIFLURALIN TECHNICAL. Active Ingredients: trifluralin (a,a,a - trifluoro-2,6-dinitro,N,N-dipropyl-p-toluidine) 95%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 1471-59. Elanco Products, Div. of Eli Lilly. TREFLAN 5G. Active Ingredients: trifluralin (a,a,a, - trifluoro - 2,6-dinitro-N,N-dipropyl - p - toluidine) 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 1471-66. Eli Lilly & Co., Elanco Products Div., PO Box 1750, Indianapolis IN 46206. ELANCO TREFLAN 5G. Active Ingredients: trifluralin (a,a,a, - trifluoro-2,6 - dinitro - N,N - dipropyl - p-toluidine) 5.0%. Method of Support: Application proceeds under 2(b) of interm policy. PH23.

EPA File Symbol 21270-0. E. Targosz & Co., 736 Estes Ave., Schaumburg IL 60172. CRYSTAL DISINFECTANT BOWL CLEANER. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 1.250%; Dioctyl Dimethyl Ammonium Chloride 0.625%; Didecyl Dimethyl Ammonium Chloride 0.625; Alkyl Amino Betaine 1.000%; Hydrogen Chloride 8.000%; Alkyl-C8 7%, C10 8%, C12 46%, C14 24%, C16 10%, C18 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 279-EOAU. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY. DIPEL 2 SULFUR 25 DUST. Active Ingredients: Bacillus thuringiensis Berliner, 320 International Units of Potency per mg (at least 0.5 billion viable spores per gm) 0.064%; Sulfur 25.000%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 7296-RN. Gem City Chemicals, Inc., 1287 Air City Ave., Dayton OH 45404. GEMCHLOR SWIMMING POOL SANITIZER. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 34911-I. HI-Yield Chemical Co., Box 460, Bonham TX 75418. HI-YIELD BUG BAIT. Active Ingredients: Carbaryl (1-Naphthyl N-Methylcarbamate) 4%; Metaldehyde 1%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 17866–E. Industrial Maintenance Corp., 3520 Tryclan Dr., Charlotte NC 28210. A–101 ALGAECIDE. Active Ingredients: Sodium Penta Chlorophenate 79%; Sodium Salts of other Chlorophenols 11%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 33660–G. Industria Prodotti Chimici, Robert Alikonis, Suite 575, 1629 K St., NW., Washington DC 20006. TRIFLURALIN TECHNICAL AN HERBICIDE FOR FORMULATING USE. Active Ingredients: trifluralin (a,a,a - trifluoro - 2,6-dinitro-N,N-dipropyl - p - toluidine) 97%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA File Symbol 618–IT. Merck & Co., Inc., Rahway NJ 07065. METACIDE 38. Active Ingredients: 1,2-dibromo-2,4-dicyanobutane 98%. Method of Support: Application proceeds under 2(a) of interim policy. PM22

EPA File Symbol 37532–R. Mogul Maintenance Systems, Div. of The Mogul Corp., Pine & Mogul Sts., Chagrin Falls OH 44022. MOGUL-CIDE 48. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 0.950%; Dioctyl Dimethyl Ammonium Chloride 0.475%; Didecyl Dimethyl Ammonium Chloride 0.475%; Tetrasodium Ethylenediamine Tetraacetate 1.000%; Trisodium Phosphate 2.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 1597–RU. Omaha Compound Co., 21st & Nicholas Sts., Omaha NE 68102. HY-GEE-NITE ODORLESS SANITIZER. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 10.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 3635–ERR. Oxford Chemicals, PO Box 80202, Atlanta GA 30341. OXFORD 1217. Active Ingredients: Isopropanol 11.30%; Sodium xylene sulfonate 4.40%; Sodium ortho-benzylparachlorophenate 4.54%; Sodium paratertiary butylphenate 8.98%; Tetrasodium ethylenediaminetetraacetate 3.80%; Sodium orthophenylphenate 4.20%. Method of Support: Application proceeds under 2(c) of interim policy. Republished. Revised offer to pay statement submitted. PM32

EPA File Symbol 3635–ERN. Oxford Chemicals. OXFORD 1220. Active Ingredients: Isopropanol 10.50%; Tetrasodium ethylenediaminetetraacetate 4.24%; Sodium xylene sulfonate 2.10%; Sodium ortho-benzylparachlorophenate 4.67%; Sodium paratertiary butylphenate 2.15%; Sodium ortho-phenylphenate 2.21%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 9779–EEG. Riverside Chemical Co., PO Box 171199, Memphis TN 38117. RIVERSIDE ANT BAIT WITH DYLOX. Active Ingredients: Dimethyl (2,2,2,-Trichloro-1-Hydroxy-ethyl) Phosphonate 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted with 1–1–70 date for label originally rec'd 2–10–75. PM16

EPA File Symbol 38886–R. Polaris Water Purifiers, Inc., 3210 N. Powerline Rd., Pompano Beach FL 33067. POLARISDYNAMIC WATER SYSTEM. Active Ingredients: Metallic Silver 1.05%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 201–331. Shell Chemical Co., Div. of Shell Oil Co., Suite 200, 1025 Connecticut Ave., Washington DC 20036. NOPEST STRIP INSECTICIDE. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate 19.2%; Related Compounds 0.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA File Symbol 10352–RU. Union Carbide Corp., 270 Park Ave., New York NY 10017. UCARCIDE 125. Active Ingredients: Glutaraldehyde 25.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

[FR Doc.76–16767 Filed 6–9–76;8:45 am]

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[FRL 558–7; OPP–33000/412[

## NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB–31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: June 2, 1976.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

APPLICATIONS RECEIVED (OPP–33000/412)

EPA Reg. No. 241–233. American Cyanamid Co., Agriculutral Div., PO Box 400, Princeton NJ 08540. CYGON 400 SYSTEMIC INSECTICIDE. Active Ingredients: Dimethoate (0,0-dimethyl S-(N-methylcarbamoylmethyl) phosphorodithioate) 43.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA Reg. No. 241–94. American Cyanamid Co., Agricultural Div. CYGON 267 SYSTEMIC INSECTICIDE. Active Ingredients: Dimethoate (0,0-dimethyl S-(N-methylcarbamoylmethyl phosphorodithioate). 30.5% Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA File Symbol 2914–UI. Calgon Commercial Div., PO Box 147, 7501 Page, St. Louis MO 63166. SUM TOTIL. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Tetrasodium ethylenediamine tetraacetate 1.00%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 3125–11. Chemagro Agricultural Div., Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120. METASYSTOX–R SPRAY CONCENTRATE. Active Ingredients: *S*-[2-(Ethylsulfinyl) ethyl]*O,O*-dimethyl phosphorothioate 25%; Aromatic Petroleum Distillate 14%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted and added claim. PM16

EPA Reg. No. 3125–148. Chemagro Agricultural Div., Mobay Chemical Corp. BAYTEX LIQUID CONCENTRATE INSECTICIDE. Active Ingredients: Fenthion *O,O*-Dimethyl *O*-[3-methyl-4-(methylthio) phenyl] phosphorothioate 93%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Additional use. PM15

EPA File Symbol 900–RNI. Chemical Service, Div. of American Chemmate Corp., Howard & West St., Baltimore MD 21230. CS BACTERIOSTATIC CREME CLEANER. Active Ingredients: Ammonium Oxalate 1.30%; 2,2-Methylenebis (3,4,6-Trichlorophenol) 0.30%; Ammonium Ethylene Diamine Tetraacetate 0.20%; 2,4,4'-Trichloro-2-hydroxydiphenylether 0.10%; Ammonium Ortho Phenylphenate 0.05%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA File Symbol 7616–GU. Chem Lab Products, Inc., 2850 E. Coronado, Anaheim CA 92806. KEM TEK 30% LIQUID SWIMMING POOL ALGAECIDE. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 239–IA. Chevron Chemical Co., Ortho Div., San Francisco CA 94119. ORTHO ORNAMENTAL WEED AND FEED 12–16–8. Active Ingredients: trifluralin (a,a,a - trifluoro - 2,6 - dinitro - N,N - dipropyl - p-toluidine) 0.74%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 239–2418. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO ORTHENE 75 S SOLUBLE POWDER. Active Ingredients: Acephate (O,S-Dimethyl acetylphosphoramidothioate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 239–2186. Chevron Chem. Co., 940 Hensley Dr., Richmond CA 94801. ORTHO PARAQUAT CL. Active Ingredients: Paraquat dichloride (1,1'dimethyl-4,4'-bipyridinum dichloride) 29.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA File Symbol 8867–GG. Cleveland Chemical Co., Box 520, Cleveland MS 38732. C C C BRAND 3-3 EMULSIFIABLE INSECTICIDE CONCENTRATE. Active Ingredients: O-Ethyl O-p-Nitrophenyl Phenyl-phosphonothioate 31.00%; O,O-Dimethyl O-p-Nitrophenyl Thiophosphate 31.00%; Aromatic Petroleum Solvent 32.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 464–LGG. The Dow Chemical Co., 2030 Dow Center, Midland MI 48640. DOW HOSPITAL CLEANER AND DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) climethyl benzyl ammonium chlorides 0.125%; n-Alkyl (68% C12, 32% C14) dimethylethyl benzyl ammonium chlorides 0.125%; Tetrasodium salt of ethylenediamine tetraacetic acid 1.56%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA Reg. No. 352–342. E. I. Du Pont De Nemours & Co., Inc., Biochemicals Dept., Dupont Bldg., Wilmington DE 19898. LANNATE METHOMYL INSECTICIDE. Active Ingredients: S-methyl-N-[(methyl-carbamoyl) oxy] thioacetimidate 90%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA Reg. No. 352–370. E. I. Du Pont De Nemours & Co., Inc., Biochemicals Dept., Dupont Bldg., Wilmington DE 19898. LANNATE L METHOMYL INSECTICIDE. Active Ingredients: S-methyl-N-[(Methylcarbamoyl) oxy] thioacetimidate 0.24%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA File Symbol 2623–G. Everpure, Inc., 660 Blackhawk Dr., Westmont IL 60559. EVERPURE BROMINATING CARTRIDGE. Active Ingredients: Trimethylbenzylammonium Resin, Polybromide form 100% (Available Bromine 30%). Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 8928–13. Exxon Chemical Co., U.S.A., PO Box 3272, Houston TX 77001. RUSTBAN VY 5529 ORGANOMETALLIC ANTI-FOULING PROTECTIVE COATING. Active Ingredients: Tributyltin Fluoride 16.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 8928–12. Exxon Chemical Co., U.S.A., RUSTBAN VY 5528 ORGANOMETALLIC ANTI-FOULING PROTECTIVE COATING. Active Ingredients: Tributyltin Fluoride 10.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA File Symbol 7796–G. Dr. MacDonald's Vitamized Feed Co., Inc., PO Box 1077, Fort Dodge IA 50501. DR. MACDONALD's G-F-L KONTROL INSECTICIDAL MINERAL. Active Ingredients: O,O-dimethyl O-(2,4,5-trichlorophenyl) Phosphorothioate 6.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 5736–25. DuBois Chemicals, Div. of Chemed Corp., 3630 E. Kemper Rd., DuBois Tower, Cincinnati OH. CONTROL. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.25%; n-alkyl (68% C12, 32% C14) dimethyl ethyl benzyl ammonium chlorides 5.25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM31

EPA File Symbol 8730–RN. Health-Chem Corp., 1107 Broadway, New York NY 10010. HERCON "INSECTAPE" CONTAINS CHLORPYRIFOS. Active Ingredients: Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2 pyridyl) phosphorothioate) 10.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM12

EPA File Symbol 1182–EE. Hubman Chemicals, 1123 W. Goodale Blvd., Columbus OH 43212. MAXSAN 7M. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 0.12%; Isopropanol 0.12%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 303–86. Huntington Laboratories, Inc., 968 E. Tipton St., Huntington IN 46750. MATAR GERMICIDAL DETERGENT. Active Ingredients: Sodium o-benzyl-p-chlorophenate 9.50%; Sodium o-phenylphenate 6.00%; Sodium xylene sulfonate 5.93%; Isopropanol 3.16%; Sodium p-tert-amylphenate 3.00%; Tetrasodium ethlenadiamine-tetraacelate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 6962–UL. Madison Bionics, 11250 Addison St., Franklin Park IL 60131. RADENE. Active Ingredients: Phosphoric acid 12.75%; Citric acid 1.00%; Essential oils 0.30%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA Reg. No. 1021–88. McLaughlin Gormley King Co. 8810 Tenth Ave., N. Minneapolis MN 55427. METERED INSECTICIDE AEROSOL. Active Ingredients: Pyrethrins 1.00%; Piperonyl butoxide, technical 2.00%; N-octyl bicycloheptene dicarboximide 3.34%; Petroleum distillate 13.66%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 524–153. Monsanto Co., Agricultural Products, 800 N. Lindburgh Ave., St. Louis MO 63166. RAMROD 65. Active Ingredients: 2-Chloro-N-isopropylacetanilide 65%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM25

EPA Reg. No. 524–286. Monsanto Co. RAMROD ATRAZINE. Active Ingredients: 2-Chloro-N-isopropylacetanilide 48.1%; Atrazine, [2 - Chloro - 4 - (ethylamino) -6-(isopropylamino) -s-triazine] 20.9%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM25

EPA Reg. No. 524–285. Monsanto Co. LASSO. Active Ingredients: Alachlor 43.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 675–UU. National Laboratories, Lehn & Fink Industrial Products—Div. of Sterling Drug, Inc., Montvale NJ 07645—Plant. NEW CON-O-SYL. Active Ingredients: O-Phenylphenol 9.20%; o-Benzyl-p-chlorophenol 2.80%; p-Tert Amylphenol 1.70%; Tetrasodium Ethylenediamine Tetraacetate 2.80%; Sodium Dodecylbenzenesulfonate 3.00%; Isopropyl Alcohol 2.60%, Essential Oils, 0.25%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA File Symbol 2675–RN. National Purity Soap & Chemical Co., 110 Fifth Ave., Southeast, Minneapolis MN 55414. ASEPTIC-CLEAN II DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0% Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 7001–EGN. Occidental Chemical Co., PO Box 198, Lathrop CA 95330. SYSTEMIC INSECT SPRAY. Active Ingredients: Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate 18.0%; S-(2-(ethylsulfinyl) ethyl) O,O-Dimethyl phosphorothioate 6.0%; Aromatic Petroleum Distillate 36.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM 16

EPA File Symbol 7001–OG. Occidental Chemical Co. BEST EARWIG & SOWBUG BAIT. Active Ingredients: o-Isopropoxyphenyl Methylcarbamate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA Reg. No. 538–102. O. M. Scott & Sons, Marysville OH 43040. SCOTTS. Active Ingredients: Trifluralin (a,a,a-trifluoro-2,6,-dinitro-N,N-dipropyl-p-toluidine) 2.65%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217–480. PBI/Gordon Corp., 300 South Third St., Kansas City, KS 66118. GORDON'S WEEDER GRANULES. Active Ingredients: Trifluralin a,a,a-Trifluoro-2,6 - dinitro - N,N-dipropyl - p - toluidine 1.47%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 602–165. Ralston Purina Co., General Offices, Checkerboard Square, St. Louis MO 63188. PURINA WEED-KILL GRANULES. Active Ingredients: trifluralin a,a,a - trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine 1.47%. Method of Support. Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 602–221. Ralston Purina Co. PURINA CATTLE DUST. Active Ingredients: Methoxylchlor, Technical 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 478–28. Realex Corp., Box 78, 2500 Summit St., Kansas City MO 64161. REAL-KILL INSECT SPRAY LIQUID MATA MOSCAS MOSQUITOS. Active Ingredients: Petroleum distillate 99.525%; Technical piperonyl butoxide 0.400%; pyrethrins 0.075%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 476–2157. Stauffer Chemical Co., 1200 South 47th St., Richmond CA 94804. ERADICANE 6,7-E. Active Ingredients: *S*-Ethyl Dipropylthiocarbamate 82.6%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 148–RERU. Thompson-Hayward Chem Co., 5200 Speaker Rd., Kansas City KS 66106. ATRAZINE 80W. Active Ingredients: Atrazine (2-chloro-4-ethylamino - 6 - isopropylamino - s - triazine) 77.6%; Related Compounds 2.4%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA Reg. No. 400–104. Uniroyal Chemical, Div. of Uniroyal, Inc., 74 Amity Rd., Naugatuck CT 06770. COMITE AGRICULTURAL MITICIDE (EAST OF THE ROCKY MOUNTAINS). Active Ingredients: 2-(p-tert-butylphenoxy) cyclohexyl sulfite 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA Reg. No. 400–104. Uniroyal Chemical, Div. of Uniroyal, Inc. COMITE AGRICULTURAL MITICIDE (WEST OF THE ROCKY MOUNTAINS). Active Ingredients: 2-(p-tert-butylphenoxy)cyclohexyl 2- propynyl sulfiite 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA File Symbol 7546–RI. United States Chemical Corp., PO Box 366, Watertown WS 53094. EMERGE NO. 75. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 1386–60. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. UNICO 2,4-D LO V ESTER WEED KILLER. Active Ingredients: Iso-octyl ester of 2,4-dichlorophenoxyacetic acid 69.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 3442–ATN. USS Agri-Chemicals, Div. of U.S. Steel Corp., PO Box 1685, Atlanta GA 30301. FLOWABLE SULFUR. Active Ingredients: Sulfur as S 52.7%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New product. Revised offer to pay statement submitted. PM22

EPA Reg. No. 876–203. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. VELSICOL WEEDMASTER HERBICIDE. Active Ingredients: Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 12.37%; Dimethylamine salts of related acids 1.53%; Dimethylamine salt of 2,4-dichlorophenoxy acetic acid 37.17%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA File Symbol 7401–LR. Voluntary Purchasing Groups, Inc., Box 460, Bonham TX 75418. FERTI-LOME PLANT FOOD. Active Ingredients: Carbaryl (1-Naphthyl N-methylcarbamate) 1.786%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 7407–IR. Voluntary Purchasing Groups, Inc. SEVIN SULFUR 10–40 DUST. Active Ingredients: Carbaryl (1-naphthyl N-Methylcarbamate) 10.0%; Sulfur 40.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA Reg. No. 168–454. Wasatch Chemical Div., Entrada Industries, Inc., 1979 South 7th, West PO Box 6219, Salt Lake City UT 84106. MORGRO GRASS & WEED SEED KILLER WITH TREFLAN. Active Ingredients: Trifluralin (a,a,a,-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine 5.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 499–160. Whitmire Research Labs., Inc. 3568 Tree Court Industrial Blvd., St. Louis MO 63122. WHITMIRE PRESCRIPTION TREATMENT NO. 110 AEROSOL GENERATOR. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3 - (2 - methylpropenyl) cyclopropanecarboxylate 1.000%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 499–180. Whitmire Research Labs., Inc. WHITMIRE PRESCRIPTION TREATMENT NO. 1200 AEROSOL GENERATOR. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 1.000%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

[FR Doc.76–16766 Filed 6–9–76;8:45 am]

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[FRL 559–1; OPP 33000/415]

## NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB–31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in suppport of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: June 2, 1976.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

APPLICATIONS RECEIVED (OPP–33000/415)

EPA File Symbol 1757–AL. Drew Chemical Corp., 701 Jefferson RD., Parsippany NJ 07054. BIOSPERSE 217. Active Ingredients: Dioctyl dimethyl ammonium chloride 12.5%; Ethyl alcohol 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 352–370. E. I. Du Pont De Nemours & Co., Inc., Biochemicals Dept., 6054 Dupont Bldg., Wilmington DE 19898. LANNATE L. Active Ingredients: S-methyl-N-[(methyl carbamoyl)oxy]thioacetimidate 24%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA Reg. No. 352–370. E. I. Du Pont De Nemours & Co., Inc. LANNATE L. Active Ingredients: S-methyl-N-[(methyl carbamoyl)oxy]thioacetimidate 24%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA Reg. No. 352–370. E. I. Du Pont De Nemours & Co., Inc. LANNATE L. Active Ingredients: S-methyl-N-[(methyl carbamoyl)oxy]thioacetimidate 24%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA Reg. No. 352–342. E. I. Du Pont De Nemours & Co., Inc. LANNATE. Active Ingredients: S-methyl-N-[(methyl carbamoyl)oxy]thioacetimidate 90%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA Reg. No. 252–342. E. I. Du Pont De Nemours & Co., Inc. LANNATE. Active Ingredients: S-methyl-N-[(methyl carbamoyl)oxy]thioacetimidate 90%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA Reg. No. 352–342. E. I. Du Pont De Nemours & Co., Inc. LANNATE. Active Ingredients: S-methyl-N-[(methyl carbamoyl)oxy]thioacetimidate 90%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA Reg. No. 1598–215. FCX, Inc., PO Box 2419, Raleigh NC 27602. FCX GREEN SHRUB WEEDER. Active Ingredients: Trifluralin (a,a,a, trifluoro-2,6-dinitro-N, N-dipropyl-p-toluidine) 0.93%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4816–35. FMC Corp., A.C.D. Industrial Sales Dept., 100 Niagara St., Middleport NY 14105. EMULSIFIABLE PYRENONE 10–1. Active Ingredients: Pyrethrins 1.18%; Piperonyl Butoxide, Technical 11.-84%; Petroleum Base Oil 72.18%. Method of Support: Application proceeds under 2 (c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA Ref. No. 279–2712. FMC Corp. FURADAN 10 GRANULES. Active Ingredients: Carbofuran 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA Reg. No. 279–2925. F.M.C. Corp. KOLO–100. Active Ingredients: Sulfur 75.4%; Diclone (2,3-Dichloro-1,4-naphthoquinone) 3.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA Reg. No. 891–159. Hercules, Inc., Synthetics Dept., 910 Market St., Wilmington DE 19899. TORBIDAN 36. Active Ingredients: Toxaphene 52.6%; O,O-Dimethyl O-p-nitrophenyl thiophosphate 26.3%; Xylene range aromatic solvent 15.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA File Symbol 7455–EL. International Multifoods, 1200 Multifoods Bldg., Minneapolis MN 55402. SUPERSWEET RABON 6.98% PREMIX MEDICATED. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 6.98%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 337–AU. Lester Laboratories, Inc., 2370 Lawrence St., Atlanta GE 30344. MICROBIOCIDE–100. Active Ingredients: Methylenebis (thiocyanate) 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 618–IU. Merck & Co., Inc., Merck Chemical Div., Rahway NJ 07065. MERTECT LSP FUNGICIDE. Active Ingredients: 2-(4-thiazolyl)-benzimidazole 30.88%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 1275–UE. Oliver Chemical Co., Inc., Cincinnati OH 45225. KLEER POOL X ALGAECIDE CONCENTRATED SWIMMING POOL ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.2%; n-Dialkyl (60% C14, 30% C16, 5% C12, 5% C18) methylbenzyl ammonium chlorides 0.8%. Method of Support: Application proceeds under 2 (b) of interim policy. PM31

EPA File Symbol 27570–R. Paddock Pool Construction Co., 6525 E. Thomas Rd., Scottsdale AR 85251. PAD TABLETS. Active Ingredients: Trichloro -s- triazinetrione 100%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 2750–E. Paddock Pool Construction Co. PAD ALGAE KILL. Active Ingredients: Trichloro -s- triazinetrione 100%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 2750–G. Paddock Pool Construction Co. PAD CHEM. Active Ingredients: Sodium Dichloro-s-triazinetrione 100%. Method of Support: Application proceeds under 2(c) of interfm policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 10133–O. Selig Chemical Industries, 840 Selig Dr., S.W., Atlanta GA 30336. ZEOLITE NP–171–L ALGAECIDE. Active Ingredients: Sodium Pentachlorophenate 6.95%; Sodium Salts of other Chlorophenols 0.97%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 38452–R. Swift Chemical Co., 201 S. Arkansas, Rogers AK 72756. 3 D Active Inrgedients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 5.0%; Sodium metasilicate 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA File Symbol 11656–UN. Western Farm Service, Inc., 2401 Crow Canyon Rd., San Ramon CA 94583. TORBIDAN 28 INSECTICIDE. Active Ingredients: Toxaphene 66.6%; O,O-dimethyl-O-p-nitrophenyl thiophosphate 16.8%; Xylene 11.1%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA Reg. No. 769–377. Woolfolk Chemical Works, Inc., PO Box 938, Fort Valley GA 31030. EZE GARDEN WEED KILLER. Active Ingredients: Trifluralin (a,a,a,-trifluoro-2, 6-dinitro-N,N-dipropyl-p-toluidine) 1.75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 9782–LU. Woodbury Chemical Co. PO Box 4319, Princeton FL 33030. SUPER D+2 INSECTICIDE. Active Ingredients: Chlorpyrifos (O, O-diethy (3,5,6-trichloro-2-pyridyl) phosphorothioate 24.00%; 2,2-dichlorovinyl dimethyl phosphate 5.60%; Related Compounds 0.41%; Aromatic Petroleum Derivative Solvent 56.74%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA Reg. No. 1270–101. ZEP Manufacturing Co., PO Box 2015, Atlanta GA 30301. ZEP FORMULA 2566. Active Ingredients: Sodium o-benzyl-p-chlorophenate 12.00%; Sodium dodecylbenzene sulfonate 12.00%; Isopropanol 11.50%. Sodium xylene sulfonate 8.00%; Sodium p-tertiary-amylphenate 5.00%; Sodium 4-chloro-2-phenylphenate 4.00%; Sodium o-phenylphenate 2.80%; Tetrasodium ethylene diamine tetraacetate 2.00%; Sodium 6-chloro-2-phenylphenate 0.94%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added claims and revised offer to pay statement submitted. PM32

[FR Doc.76–16764 Filed 6–9–76;8:45 am]

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[FRL 558–8; OPP–33000/416]

## NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB–31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the

2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Seervices Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: June 2, 1976.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

APPLICATION RECEIVED (OPP—33000/416)

EPA Reg. No. 33955-528. Acme Div., PBI/Gordon Corp., 300 S. 3rd St., Kansas City KS 66118. ACME METHOXYCHLOR 50% WETTABLE. Active Ingredients: Methoxychlor Technical 50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA File Symbol 36532-G. Better Water Corp., 500-C Allied Dr., Nashville TN 37211. BIO-POOL. Active Ingredients: Poly-[oxyethylene(dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 900-RNO. Chemical Service, Div. American Chemmate Corp., Howard & West Sts., Baltimore MD 21230. ATA 111. Active Ingredients: Isopropyl alcohol 15.000%; Propylene glycol 8.000%; n-Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chlorides 0.100%; Ethyl alcohol 0.025%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 9143-LL. Chemscope Corp., 1909 Hi-Line Dr., PO Box 10752, Dallas TX 75207. CHEMSCOPE LEMON-KLEAN CLEAR DISINFECTANT. Active Ingredients: Methyldodecylbenzyl trimethyl ammonium chloride 4.0%; Methyldodecylxylyenebis (trimethyl ammonium chloride) 1.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA Reg. No. 1990-164. Farmland Industries, Inc., PO Box 7305, Kansas City MO 64116. CO-OP METHOXYCHLOR "50". Active Ingredients: Methoxychlor, Technical 50%. Method of Support: Application proceeds under 2(b) of interim policy. Application of reregistration. PM13

EPA File Symbol 32922-R. Holiday Industries, 523 E. Rock Island Rd., Grand Prairie TX 75050. POOL-CARD ALGAE CONTROL NF SUPER CONCENTRATE. Active Ingredients: Poly[oxyethylene-(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished. Revised offer to pay statement submitted. PM34

EPA Reg. No. 2393-320. Hopkin Agricultural Chemical Co., PO Box 584, Madison WI 53701. HOPKINS 75% METHOXYCHLOR DUST BASE. Active Ingredients: Methoxychlor, Technical 75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA File Symbol 35561-R. Landmark, Inc., 245 N. High St., Columbus OH 43216. PRO BLEND 50 (RA) (CONTAINS ORAL LARVICIDE). Active Ingredients: 2-chloro-1-(2, 4,5-trichlorophenyl) vinyl dimethyl phosphate 0.18%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 35561-E. Landmark, Inc. 44% MILMAKER (RA) (CONTAINS ORAL LARVICIDE). Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 0.18%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 35928-R. Marathon, Inc., Box 24383, Indianapolis IN 46224. MICROBICIDE #42. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio)-ethylene dichloride] 20.0%. Method of Support: Application proceeds of interim policy. PM 34

EPA File Symbol 3432-UI. N. Jonas & Co., Inc., 1301 Adams Rd., Cornwells Heights PA 19020. J-90 GIANT CHLORINATING STICKS. Active Ingredients: Trichloro-S-Triazinetrione 100%; Available Chlorine 90%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 3432-UA. N. Jonas & Co., Inc. J-90 CHLORINATING STICKS. Active Ingredients: Trichloro-S-Triazinetrione 100%; Available Chlorine 90%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 4029-EA. Oil Specialties & Refining Co., Inc., 18 Bridge St., Brooklyn NY 11201. CRAWLING RESIDUAL INSECTICIDE SPRAY. Active Ingredients: 0,0-Diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.500%; Pyrethrins 0.052%; Piperonyl Butoxide, Technical 0.261%; Petroleum Distillate 98.608% Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 3008-GO. Osmose Wood Preserving Co. of America, Inc., Buffalo NY 14209. TIMBERFUME. Active Ingredients: Chloropicrin 99%. Method of Support: Application proceeds under 2(c) of interim policy. PM11

EPA Reg. No. 2217-628. PBI/Gordon Corp., 300 S. 3rd St., Kansas City KS 66118. METHOXYCHLOR 75 DUST BASE. Active Ingredients: Methoxychlor Technical 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 2217-129. PBI/Gordon Corp., 300 S. 3rd St., Kansas City KS 66118. 50% METHOXYCHLOR WETTABLE POWDER. Active Ingredients: Methoxychlor Technical 50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 1159-91. Seacoast Laboratories, Inc., 257 Highway 18, East Brunswick NJ 08816. TWIN LIGHT 5% METHOXYCHLOR DUST. Active Ingredients: Methoxychlor, Technical 5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 449-78. Techne Corp., PO Box 788, St. Joseph MO 64502. TECHNE METHOXYCHLOR 50. Active Ingredients: Methoxychlor, Technical 50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 148-667. Thompson-Hayward Chemical Co., PO Box 2383, Kansas City KS 66110. METHOXYCHLOR DUST NO. 5. Active Ingredients: Technical Methoxychlor 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 1386-43. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. UNICO 2,4-D AMINE WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 49%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

[FR Doc.76-16765 Filed 6-9-76;8:45 am]

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[FRL 559-2; OPP-33000/417]

## NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

### Data To Be Considered in Support of Applications

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below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB–31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: June 2, 1976.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

APPLICATIONS RECEIVED (OPP–33000/417)

EPA File Symbol 551-EGE. Baird & McGuire, Inc., South St., Holbrook MA 02343. D-TOX-AG-500 INSECTICIDE. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidyl) phosphorothioate 18.2%; Xylene 39.6%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA File Symbol 7052–RT. Big D Chemical Co., PO Box 82822, Oklahoma City OK 73108. BIG D DISINFECTANT, DEODORIZER SANITIZER. Active Ingredients: Alkyl (C14, 50%; C12, 40%; C16, 10%) dimethyl benzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 7052–RO. Big D Chemical Co. BIG D LEMON DISINFECTANT DETERGENT SANITIZER. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 4.0%; Isopropanol 2.0%; Essential oils 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 36532–E. Better Water, Inc., 500 C Allied Dr., PO Box 11506, Nashville TN 37211. BIO–110. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylenedichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 38903–R. Boca Pool-Trol Lab., Inc., 303 NW 1st Ave., Boca Raton FL 33432. ALLIED POOL GUARD CHLORINATING LIQUID SOLUTION. Active Ingredients: Sodium Hypochlorite 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 802–167. Charles H. Lilly Co., 100 SE Alder, Portland OR 97214. MILLER'S METHOXYCHLOR 5D. Active Ingredients: Methoxychlor, technical 5.0% . Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 239–2404. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO MONITOR 4 SPRAY. Active Ingredients: O,S-dimethyl phosphoramidothioate 40.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA File Symbol 1677–TO. Economics Laboratory, Inc., Osborn Building, St. Paul MN 55102. MIKRO–QUAT–50. Active Ingredients: Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chlorides 4.5%; Trisodium ethylenediamine-tetraacetate 0.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 1990–GTE. Farmland Industries, Inc., PO Box 7305, Kansas City MO 64116. TURBEX. Active Ingredients: Alkyl 1,3-Propylene Diamine 0.03%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 961–283. Lebanon Chemical Corp. (The Bishop Co. Div.), PO Box 180, Lebanon PA 17042. GREENVIEW EVER PREEN. Active Ingredients: Trifluralin (a,a,a-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine 0.74%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961–280. Lebanon Chemical Corp. GREENVIEW PREEN THE WEED PREVENTER. Active Ingredients: Trifluralin (a,a,a-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine) 1.47%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961–250. Lebanon Chemical Corp. LEBANON FLOWER AND SHRUBBERY BED WEED CONTROL CONTAINS TREFLAN. Active Ingredients: Trifluralin (a,a,a-trifluoro-2,6-dinitro-N,N-dipropyl-(p-toluidine) 1.15%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 337–AL. Lester Laboratories, Inc., 2370 Lawrence St., Atlanta GA 30344. MICROBIOCIDE–330. Active Ingredients: Dodecylguanidine Hydrochloride 33%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 1553–RNG. Momar Inc., PO Box 19567, Station N, Atlanta GA 30325. MOMAR POULTRY-DYNE #165. Active Ingredients: Alpha-(Para-nonylphenyl)-Omega-Hydroxypoly (Oxyethylene)-Iodine Complex 13.89%; Phosphoric Acid 8.50%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 6020–RA. Mom Chemical Co., Inc., 7775 N.W. 66 St., Miami FL 33166. WHISP DISINFECTANT-DEODORIZER-MILDEWCIDE. Active Ingredients: Alkyl (C14, 90%; C12, 5%; C16, 5% Dimethyl 3,4-Dichlorobenzyl Ammonium Chloride 1.250%; Alkyl (C14, 58%; C16, 28%, C12, 14%) Dimethyl Benzyl Ammonium Chloride 0.625%; Alkyl (C14, 90%; C12, 5%; C16, 5%) Dimethyl Ethyl Ammonium Bromide 0.625%; Sodium Carbonate 0.500%; Ethylenediaminetetraacetic Acid, Tetrasodium Salt 0.190%; Essential Oils 0.250%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA Reg. No. 538–83. O. M. Scott & Sons, Marysville OH 43040. SCOTTS SHRUB & TREE WEED PREVENTER PLUS FERTILIZER. 20–4–8. Active Ingredients: Trifluralin (*a,a,a*-trifluoro-2,6-dinitro-N,N-dipropyl-*p*-toluidine) 0.68%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 33900–R. Pedrick Plumbing & Sprinkler, 151 NE 2 Ave., Deerfield Beach FL 33441. ALLIED POOL GUARD CHLORINATING LIQUID SOLUTION. Active Ingredients: Sodium Hypochlorite 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 7138–T. Southern States Cooperative, Inc., Feed Div., P.O. Box 656, Richmond VA 23123. FLY BAN TOP DRESS (CONTAINS RABON ORAL LARVICIDE). Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl 0.46%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 11668–O. T&R Chemicals, PO Box 135, El Paso TX 79941. T&R SUPER LEMON DISINFECTANT. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 4.0%; Isopropanol 2.0%; Essential Oils 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 11668–I. T & R Chemicals Inc. T & R LEMON DISINFECTANT. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 2.00%; Essential oils 0.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 11668–L. T & R Chemicals Inc. T & R SUPER MINT DISINFECTANT. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 4.00%; Isopropanol 4.00%; Methyl salicylate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 11668–U. T & R Chemicals Inc. T & R MINT DISINFECTANT. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 400–75. Uniroyal Chem Co., Div. of Uniroyal Co., Amity Rd., Bethany CT 06525. DYANAP. Active Ingredients: Sodium N-1-naphthylphthalamate 22.3%; Sodium Salt of dinoseb (2-sec-butyl-4,6-dinitrophenol) 11.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol: 876–ELR. Velsicol Chemical Corp., 341 E Ohio St., Chicago IL 60611. GOLD CREST TSAR 4E. Active Ingredients: 48.3% 1-methyl ethyl (E)-3-[[(ethylamino) methoxyphosphinothioyl]oxy]-2-butenoate. Method of Support: Application proceeds under 2(a) of interim policy. PM16

EPA Reg. No. 2853–45. Vineland Chemical Co., West Wheat Road, Vineland NJ 08360. Active Ingredients: 1,4-Bis (bromoacetoxy)-2-butene 48%; 2,3-dibromopropionaldehyde 32%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

[FR Doc.76–16763 Filed 6–9–76;8:45 am]

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[FRL 558–2; PP 4G1511/T63]

## COLLETOTRICHUM GLOEOSPORIOIDES

### Renewal and Establishment of a Temporary Exemption From the Requirement of a Tolerance

On September 25, 1975, the Environmental Protection Agency (EPA) announced (40 FR 44186) that the temporary exemption from the requirement of a tolerance for residues of the mycoherbicide *Colletotrichum gloeosporioides* f. sp. *aeschynomene* in or on rice (when used as an herbicide to control northern jointvetch *Aeschynomene virginica*) established in response to a pesticide petition (PP 4G1511) submitted by the University of Arkansas, Fayetteville AR 72701, had been extended for 99 days and was scheduled to expire December 31, 1975.

The University of Arkansas has requested a one-year renewal of this temporary exemption from the requirement of a tolerance and has also requested the establishment of a temporary exemption for residues of the mycoherbicide in or on the raw agricultural commodity soybeans. These temporary exemptions are to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that is being renewed concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

An evaluation of the scientific data reported and other relevant material has shown that a renewal of the temporary exemption for rice and establishment of the temporary exemption for soybeans will protect the public health, and it is concluded, therefore, that temporary exemptions be established/renewed on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. The University of Arkansas must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The University must also keep records of distribution and performance and on request make the records available to any authorized officer of employee of the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires June 4, 1977. Residues remaining in or on rice and soybeans after this expiration date will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary exemption. This temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)])

Dated: June 4, 1976.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

[FR Doc.76–16769 Filed 6–9–76;8:45 am]

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# DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

## GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. Section 925(c) Notice is hereby given that pursuant to 18 U.S.C. Section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been estabilshed to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be dangerous to the public interest.

Aker, Robert E., 226 Tim Rick Drive, Munster, Indiana, convicted on or about March 2, 1944, in the Circuit Court of Allen County, Fort Wayne, Indiana.

Bryant, John L., 257 Signal Company, APO San Francisco, California, convicted on April 11, 1972, in the Headquarters Company, Third Regional Assistance Command, Cam Ranh Bay, Republic of Vietnam.

Delehanty, Danny Michael, 1508 Byron Drive, Clarksville, Indiana, convicted on September 23, 1968, in the Gallatin Circuit Court, Commonwealth of Kentucky.

Dismang, Melvin L., 6525 Michigan Avenue, St. Louis, Missouri, convicted on April 26, 1957, in the Circuit Court, St. Louis, Missouri.

Duke, Charles Marshall, 2201 Battleford Road, Columbia, South Carolina, convicted on March 17, 1969, in the United States District Court, Columbia, South Carolina.

Dyer, Andrew L., 1579 Rhinelander Avenue, Bronx, New York, convicted on December 10, 1956, in the Essex County Court, Newark, New Jersey.

Enloe, Charles Newton, 800 North Katy Avenue, Hominy, Oklahoma, convicted on July 3, 1957, in the District Court of Osage County, Oklahoma; and on August 7, 1975, in the District Court, Osage County, Oklahoma.

Field, Charles R., Junction 219 & 140, East Sumner, Maine, convicted on March 5, 1956, in the Monmouth County Court, New Jersey.

Gillespie, Daryl R., 541 College, Idaho Falls, Idaho, convicted on June 30, 1972, in the Fourth Judicial Court, Utah County, Utah.

Godfrey, Arthur R., 1416 Ellis Street, Caldwell, Idaho, convicted on July 5, 1933, in the District Court of the Seventh Judicial District, State of Idaho.

Grant, George, 2095 Creston Avenue, Bronx, New York, convicted on January 12, 1973, in the Supreme Court, Bronx County, New York.

Hannah, Mike E., 201 North Sarnoff Drive, Tucson, Arizona, convicted on September 26, 1968, in Superior Court I, Monroe County, Indiana; and on April 12, 1973, in the United States District Court, Judicial District Court of Arizona, Tucson, Arizona.

Higgins, Richard L., 36 South 8th Street, Noblesville, Indiana, convicted on March 12, 1931, in the Boone Circuit Court, Boone County, Indiana.

Janney, Larry R., 6265 Alkire Road, Galloway, Ohio, convicted on October 25, 1961, in the Franklin County Court of Common Pleas, Columbus, Ohio.

Jones, Malcolm L., Route 4, Box 653, Morehead, Kentucky, convicted on October 16, 1972, in the United States District Court, Eastern District of Kentucky.

Keaton, Lafayette F., 3540 N. Mississippi Avenue, Portland, Oregon, convicted on November 27, 1972, in the Circuit Court of the State of Oregon for Multnomah County.

Keith, Gary L., 5309 Division Avenue, Birmingham, Alabama, convicted on June 25, 1964, in the United States District Court, Northern District of Alabama.

King, John H., 4127 Joliet, Warren, Michigan, convicted on May 27, 1947, in the Kent County Circuit Court, Michigan.

King, Terry Floyd, 2010 South 74th Street, West Allis, Wisconsin, convicted on May 1, 1967, in the Circuit Court, County of Milwaukee, Milwaukee, Wisconsin; and on or about May 1, 1970, in the Circuit Court, Branch II, Waukesha County, Waukesha, Wisconsin.

Kirksey, Charles E., 235 Holyhead, Houston, Texas, convicted on October 8, 1969, in the 176th District Court of Harris County, Texas.

Kunz, Gary L., 2002 Pasadena Drive, Austin, Texas, convicted on March 1, 1973, in the 167th Judicial District Court, Travis County, Texas.

Lindeman, Ronnie R., Glenham, South Dakota, convicted on September 14, 1972, in the Circuit Court, Sixth Judicial Circuit, Mobridge, South Dakota.

Loshek, Charles E., 526½ East Third Street, Winona, Minnesota, convicted on February 4, 1974, in the District Court, Third Judicial District, Winona County, Minnesota.

Lucas, Clark Gary, 3645 E. Kirby, Detroit, Michigan, convicted in October 1955, in the Eighth Judicial District Court, Nevada; and in September 1960, in the Superior Court for the County of Los Angeles, California.

Marr, Joleen M., Box 524, Armstrong, Iowa, convicted on July 20, 1972, in the District Court, Dickinson County, Spirit Lake, Iowa.

Montgomery, Joseph D., 3218 Green Street, Harrisburg, Pennsylvania, convicted on March 11, 1971, in the Dauphin County Criminal Court, Harrisburg, Pennsylvania.

Noto, Henry Anthony, 8076 Albert Drive, Baton Rouge, Louisiana, convicted on May 21, 1971, in the United States District Court, Eastern District of Louisiana, Baton Rouge, Louisiana.

Payne, James H., Box 174, Overton, Nebraska, convicted on August 29, 1958, in the District Court, Merrill County, Bridgeport, Nebraska.

Provencher, Leo N., RFD #1, Limerick, Maine, convicted on April 14, 1972, in the United States District Court, Southern Division, District of Maine; and on June 1, 1972, in the York County Superior Court, Maine.

Rutherford, Donald R., 271 Marston, Detroit, Michigan, convicted on September 24, 1945, and on September 20, 1962, in the Recorder's Court, Detroit, Michigan.

Schaeffer, Steven D., 2121 N. Dekum, Portland, Oregon, convicted on November 22, 1971, in the Multnomah County Circuit Court, Oregon.

Schirmer, Paul V., U.S. 42, West Main Street, Warsaw, Kentucky, convicted on November 8, 1974, in the United States District Court, Eastern District Kentucky, Frankfort, Kentucky.

Snyder, James O., 120 Edsel, Otsego, Michigan, convicted on October 25, 1966, in the United States District Court, Del Rio, Texas.

Souas, Marcellino Bento, 47½ Mill Street, Augusta, Maine, convicted on June 10, 1963, in the Superior Court, Kennebec County, Maine.

Sparks, Donald E., P.O. Box 1, Fiddletown, California, convicted on July 22, 1963, in the Superior Court, Alameda County, California.

Trenary, Ronald Eugene, Box 147, Gilmore City, Iowa, convicted on or about September 14, 1970, in the Iowa District Court, Humboldt County.

Tuttle, Robert R., Rural Route 4, Winterset, Iowa, convicted on April 17, 1959, in the District Court, Madison County, Winterset, Iowa.

Wergin, John C., 1201 N. 3rd Avenue, Wausau, Wisconsin, convicted on January 3, 1973, in the County Court, Branch 2, Rock County, Wisconisn.

Signed at Washington, DC, this 2nd day of June 1976.

REX D. DAVIS,
*Director, Bureau of Alcohol, Tobacco and Firearms.*

[FR Doc.76-16787 Filed 6-9-76;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF SCIENTIFIC ADVISORY BOARD

#### Meeting

The USAF Scientific Advisory Board (SAB) Strategic Panel will hold a meeting on June 30, 1976 from 8:00 a.m. to 5:30 p.m. at HQ NORAD/ADCOM, Ent Air Force Base, Colorado.

The Panel will receive classified informational briefings on operational issues facing NORAD/ADCOM today.

The meeting concerns matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

JAMES L. ELMER,
*Major, USAF, Executive, Directorate of Administration.*

JUNE 2, 1976.

[FR Doc.76-16808 Filed 6-9-76;8:45 am]

### Department of the Navy

### SECRETARY OF THE NAVY OCEANOGRAPHIC ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is given that the Secretary of the Navy Oceanographic Advisory Committee will meet on July 1–2, 1976, at the facilities of the Oceanographer of the Navy, 200 Stovall Street, Alexandria, Virginia. Sessions of the meeting will commence at 9:00 a.m. and 1:00 p.m. on July 1 and at 9:00 a.m. on July 2. The July 2 morning session will be closed to the public.

The purpose of the meeting is to elicit the advice of the committee concerning various ocean-science, ocean-operations, and ocean-engineering programs being conducted by the Navy in connection with the national defense effort. Matters concerning the programs which will be discussed during the July 2 morning session are classified and required to be kept secret in the interest of the national defense. The Secretary of the Navy has therefore determined in writing that the public interest requires the July 2 morning session of the meeting to be closed to the public because it will be concerned with matters listed in section 552(b)(1) of title 5, United States Code.

Dated: June 4, 1976.

LARRY G. PARKS,
*Captain, JAGC, U.S. Navy, Assistant Judge Advocate General, (Civil Law).*

[FR Doc.76-16809 Filed 6-9-76;8:45 am]

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

### NATION INSTITUTE OF CORRECTIONS ADVISORY BOARD

#### Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Sunday, July 18, 1976, starting at 4:00 p.m. and on Monday, July 19, 1976, starting at 8:00 a.m., in the Conference Room of the Federal Bureau of Prisons Staff Training Center, 15400 East 14th Place, Aurora, Colorado.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board) the Board will revise internal policy and further refine the Institute's thrust areas.

Signed at Washington, D.C., this 3rd day of June, 1976.

SHERMAN R. DAY,
*Director.*

[FR Doc.76-16822 Filed 6-9-76;8:45 am]

### Law Enforcement Assistance Administration

### EMPLOYEE PROTECTION

#### Proposed LEAA Guideline Revision for Implementation of the Employee Protection Provisions of the Juvenile Justice and Delinquency Prevention Act of 1974

Notice is hereby given that the Law Enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. § 5601, et seq., proposes to issue a revision to State Planning Agency Grants Guideline Manual, M 4100.1E, January 16, 1976, Chapter 3, paragraph 77(m).

The cited guideline provision sets forth State plan requirements which must be met to assure the implementation of equitable arrangements for employees affected by assistance under the formula grant program of the subject Act. Protective arrangements are required by Section 223(a)(17) of the Act to be established as a condition for approval of State plans submitted to the Administrator of the Law Enforcement Assistance Administration under the Act.

Pursuant to Congressional direction, LEAA has consulted with the Secretary of Labor in the formulation of the revised employee protection guideline.

In view of the potential impact of the revised guideline on State and local governments, labor organizations, and public employees whose interests may be affected by assistance granted under the Act, LEAA desires to receive the views and comments of interested parties. Therefore, this notice and opportunity to submit written views and comments is provided as a supplement to the formal LEAA guideline clearance process provided under Title IV of the Intergovernmental Cooperation Act (Pub. L. 90-577) and Office of Management and Budget Circular No. A-85 (January 20, 1971).

Interested persons are invited to submit written comments, suggestions, or objections to Mr. Thomas J. Madden, General Counsel, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Room 1268, Washington, D.C. 20531, on or before July 15, 1976.

It is, therefore, proposed to revise LEAA State Planning Agency Grants Guideline Manual, M 4100.1E, January 16, 1976, Chapter 3, paragraph 77(m) by substituting for the current guideline requirement a new paragraph 77(m) to read as set forth below.

m. *Equitable Arrangements for Employees Affected by Assistance under this Act.*

(1) *Act Requirement.*—Section 223(a)(17) of the Juvenile Justice Act requires that the State plan "provide that fair and equitable arrangements are made to protect the interests of employees affected by assistance under this Act. Such protective arrangements shall, to the maximum extent feasible, include, without being limited to, such provisions as may be necessary for—

(A) The preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

(B) The continuation of collective-bargaining rights;

(C) The protection of individual employees against a worsening of their positions with respect to their employment;

(D) Assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this Act;

(E) Training or retraining programs.

The State plan shall provide for the terms and conditions of the protection arrangements established pursuant to this section;".

(2) *Purpose.*—The creation of innovative community-based facilities and services at the State and local level may result in changes in employment opportunities or status which will affect current State, county, and local governmental employees. This plan requirement is intended to protect the employment interests of such employees when affected by assistance granted under the Juvenile Justice Act.

(3) *Scope.*—The scope of employee protections extends to employees of State, county, and local governments who are employed at a "correctional institution or facility" for juveniles as defined in Section 103(12) of the Juvenile Justice Act. This definition includes detention facilities.

(4) *Responsibility.*—It is the responsibility of the cognizant State or unit of general local government to meet the terms and conditions set forth in the State plan for the implementation of this provision and to provide the required protections to affected employees. For this reason the State should require that sub-grant applications specifically address this issue.

(5) *Terms and Conditions.*—The terms and conditions of such protective arrangements must include, to the maximum extent feasible, provisions necessary to assure:

(a) *The preservation of rights, privileges, and benefits under existing collective-bargaining agreements or otherwise:* Rights, privileges, and benefits include accrued pension benefits, vacation benefits, insurance benefits, and other benefits that are individual in nature. This provision requires that a new job, offered to an affected employee, not terminate these benefits. A substantial preservation of these employee rights is required. This requirement applies only to jobs offered by the State or a unit of general local government pursuant to the operation of this requirement and not to jobs found independently by a terminated employee seeking alternative employment. The new employing agency would incur the costs of preserving these benefits.

(b) *The continuation of collective-bargaining rights:* Such rights should be preserved in two circumstances: 1 When the administration of a correctional institution or facility is transferred from one governmental unit to another, for example, from State to county as a result of the requirements of the Juvenile Justice Act.

2 When an entire employee group of an existing correctional institution or facility is moved intact to a new facility with no new additional employees in the labor force.

(c) *Protection of individual employees against a worsening of their position with regard to their employment:* This provision requires that an employee whose job was terminated by operation of this legislation cannot be offered a job, for example, at a substantial decrease in pay, or with a substantial increase in health or safety hazard, or be taken from a position of significant responsibility and placed in a menial position. While exact equality in wages, status, working conditions, or hours is not required, a reasonable effort to obtain comparable conditions must be made.

(d) *Assurances of employment to employees of any state or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this act:* This provision requires that affected employees be offered a job that conforms with these guidelines. It requires that the State or unit of general local government assume responsibility as the employer of last resort but in no event will the State or unit of general local government be obligated to provide employment to an individual in the same job capacity or locality as his previous employment. Provision should be made for the payment of relocation expenses where the employee's new work location is not within a reasonable distance from the employee's previous work location.

(e) *Training or retraining programs:* Affected employees should not be compelled to work in a capacity in which they have no experience or training. The State must assume the major responsibility for providing training or retraining programs, either on the job or paid training, to employees of the State or units of general local government affected by assistance under the Juvenile Justice Act.

(f) Any other provision(s) deemed necessary to protect the interests of employees affected by assistance under the Juvenile Justice Act.

(6) *Maximum Extent Feasible.*—As applied to the specific protective arrangements, means that a good faith effort to protect each displaced employee is required. However, the protective provisions will not require that either the State or a unit of general local government provide cash payments or otherwise subsidize the salary of any affected employee. A reasonable time should be established in order to provide on opportunity for a good faith effort to be made to effectuate protective action. Further, maximum extent feasible recognizes that while the State planning agency can require State agencies or units of general local government to provide protective arrangements as a condition of the receipt of formula grant funds, it may not be able to control the actions of such units which are not recipients of formula grant funds.

(7) *Methods Available to State Planning Agency to Carry Out the Terms and Conditions.*—It is expected that the State planning agency will consult with relevant State agencies, units of general local government, and employee organizations in the formulation of the terms and conditions of the protective arrangements. Executive or legislative action to assure cooperation and implementation should be considered. Formal agreements with State agencies and units of local government which operate correctional institutions or facilities for juveniles would be appropriate. Utilization of Federal and State resources (Comprehensive Employment and Training Act funds, Part E Crime Control Act funds for retraining, State employment services, etc.) should be explored and utilized where possible. Recipients of LEAA funds for juvenile justice programs should be required, through appropriate special conditions, to cooperate wherever possible in the provision of protections, in providing training or retraining, and in giving preference for employment to affected employees. Further, procedures should be established which will identify affected employees and employee groups entitled to protection under the Act and provide for arbitration procedures, at no expense to employees, where disputes arise with regard to eligibility for or provision of protections pursuant to the approved State plan.

(8) *Plan Requirements.*—The State plan should set forth a complete plan for meeting this requirement, including at a minimum the following:

(a) An assessment of the impact of Juvenile Justice Act funds to date, with particular emphasis on the impact on employees of correctional institutions and facilities of efforts to meet the deinstitutionalization of status offenders requirement (Section 223(a)(12)).

(b) An assessment of the anticipated future impact of Juvenile Justice Act funds on such employees over the next three plan years.

(c) A description of the process used to formulate the terms and conditions of the protective arrangements established pursuant to this requirement.

(d) The terms and conditions of the protective arrangements established pursuant to this requirement.

(e) The procedures and mechanisms established to assure, to the maximum extent feasible, that the full range of protective arrangements are available to employees affected by assistance under the Juvenile Justice Act.

(f) Future efforts which the State planning agency will pursue where all necessary procedures and mechanisms are not yet in place.

RICHARD W. VELDE,
*Administrator.*

[FR Doc.76-16823 Filed 6-9-76;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### NEVADA

### Change of Names of Major Administrative Units

JUNE 3, 1976.

Notice is hereby given that the four Administrative Units within the Ely District, BLM, are changed. The Moriah and Pony Springs Resource Areas are combined, and named, The Schell Resource Area; the Currant and Cherry Creek Resource Areas are combined, and named, The Egan Resource Area.

E. I. ROWLAND,
*State Director, Nevada.*

[FR Doc.76-16818 Filed 6-9-76; 8:45 am]

### NEVADA

### Redelegation of Authority to District Managers

JUNE 3, 1976.

Pursuant to Redelegation of Authority granted under Bureau Order 701, dated July 23, 1964, as amended, in Section 1.1 and Section 3.9(g), the authorization to take all actions delegated by Section 1.9(g) of said Order 701 is hereby redelegated to District Managers, Nevada. This order will become effective on June 1, 1976.

E. I. ROWLAND,
*State Director, Nevada.*

[FR Doc.76-16817 Filed 6-9-76;8:45 am]

[NM 28218 and 28219]

### NEW MEXICO

### Applications

JUNE 2, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.,
Sec. 10, NE¼SW½ and N½SE¼.
T. 19 S., R. 32 E.,
Sec. 9, W½SE¼.

These pipelines will convey natural gas across .897 of a mile of national resource lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.76-16816 Filed 6-9-76;8:45 am]

### NEW MEXICO STATE MULTIPLE USE ADVISORY BOARD

### Meeting

Notice is hereby given that the New Mexico State Multiple Use Advisory Board will meet at the Inn of the Mountain Gods, Mescalero Apache Indian Reservation, Otero County, New Mexico, for one day July 7, 1976, as follows:

8:30 a.m. to 4:30 p.m. Further deliberations and possible recommendations pertaining to an airport proposed for lands on the Fort Stanton reservation; further deliberation and possible recommendations pertaining to previous Board committee work and recommendations, especially regarding work of the committee on environmental assessment processes and utility transmission lines; discussion and possible recommendations pertaining to the required rechartering and possible recomposition of the Board's membership as provided by the National Advisory Committee Act, and discussion and selection of topics to be considered at the Board's fall meeting.

There will be 15-minute recesses at 10 a.m. and 3 p.m., and a recess for lunch beginning at 12 Noon and ending at 1:00 p.m.

The meeting will be open to the public. Effort will be made on a space-available and time-available basis to accommodate members of the public wishing to participate in the sessions, and wishing to make written or oral statements to the Board, provided that notice of such desire and intent are communicated to the New Mexico State Director of the Bureau of Land Management not later than 4:00 p.m. July 1, 1976.

Written communications and requests for information on the meetings should be directed to the Office of Public Affairs, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Telephone requests or messages on the same subjects should be directed to Doyle Kline (505) 988-6316.

ARTHUR W. ZIMMERMAN,
*State Director.*

JUNE 3, 1976.

[FR Doc.76-16815 Filed 6-9-76;8:45 am]

[INT. FES 76-30]

### PROPOSED PHOSPHATE LEASE WITHIN THE LOS PADRES NATIONAL FOREST, VENTURA COUNTY, CALIFORNIA

### Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Department of the Interior, has prepared a final environmental impact statement relating to a proposed phosphate lease covering 2,434 acres within the Los Padres National Forest, Ventura County, California. The environmental statement considers the possible effects the proposed mining operation and the construction of the necessary facilities would have upon the environment, including the California condor.

The final environmental impact statement has been submitted to the Council on Environmental Quality and made available to government agencies and the public.

Copies of the final environmental impact statement are available for inspection at libraries in the locality and the following offices:

Bureau of Land Management, Department of the Interior, 19th and C Streets, N.W., Washington, D.C.
Bureau of Land Management, Federal Building, Room E2841, 2800 Cottage Way, Sacramento, California.
Bureau of Land Management, Bakersfield District Office, U.S. Federal Building, Room 331, 800 Truxton Avenue, Bakersfield, California.
Forest Supervisor, Los Padres National Forest, 42 Aero Camino, Goleta, California.
District Ranger, Ojai Ranger District, 1190 East Ojai Avenue, Ojai, California.
U.S. Forest Service, Department of Agriculture, Rooslyn Plaza East, Room 810, Arlington, Virginia.

A limited number of single copies may be obtained from the following offices:

Director (731), Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.
California State Office, Bureau of Land Management, Federal Building, Room E2841, 2800 Cottage Way, Sacramento, California 95825.
Office of the Forest Supervisor, Los Padres National Forest, 42 Aero Camino, Goleta, California 93017.

CURT BERKLUND,
*Director, Bureau of Land Management.*

Approved: June 7, 1976.

STANLEY D. DOREMUS,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.76-16802 Filed 6-9-76;8:45 am]

[Wyoming 54972]

### WYOMING

### Application

JUNE 2, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Company filed an application for a right-of-way to construct a 10 inch pipeline for the purpose of transporting natural gas across the following National Resource Lands:

SIXTH PRINCIPAL MERIDIAN

T. 16 N., R. 112 W.,
Sec. 18: Lots 7, 8;
Sec. 20: SW¼SW¼;
Sec. 30: SE¼NE¼, E½SE¼.

T. 15 N., R. 113 W.,
Sec. 12: NW¼NW¼;
Sec. 14: W½NE¼, SE¼NW¼, E½SW¼, SW¼SE¼;
Sec. 23: E½SE¼;
Sec. 25: SW¼NW¼, W¼SW¼;
Sec. 26: E½NE¼, NE¼SE¼;
Sec. 36: W½NW¼.
T. 16 N., R. 113 W.,
Sec. 12: E½E½, SW¼NE¼.

The pipeline will transport natural gas from the sweetening plant within the Butcher Knife Spring Unit Area to the Mountain Fuel Supply Company's Church Buttes Unit Area.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.76-16819 Filed 6-9-76;8:45 am]

[Wyoming 55324]

## WYOMING

### Application

JUNE 4, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northern Gas Company filed an application for a right-of-way to construct a four inch pipeline for the purpose of transporting natural gas across the following National Resource Lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING
T. 21 N., R. 78 W.,
Sec. 26: NW¼NE¼, N½NW¼, SW¼NW¼.

The pipeline will transport natural gas from the Little Medicine Bow Anticline in Carbon County, Wyoming to the applicant's Rawlins-Medicine Bow eight inch transmission line.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.76-16820 Filed 6-9-76;8:45 am]

## Fish and Wildlife Service

### ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

*Applicant:*

Bureau of Land Management,
P.O. Box 1150,
Fairbanks, Alaska 99707.
Attention: Curtis V. McVee.

OMB NO. 42-R1470

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To conduct nesting raptor inventories on national resource lands in Alaska; includes habitat of peregrine falcon.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Louis D. Jurs
Bureau of Land Management
555 Cordova Street
Anchorage, Alaska 99501

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 6'2" WEIGHT: 200
DATE OF BIRTH: February 7, 1941
COLOR HAIR: Brown COLOR EYES: Green
PHONE NUMBER WHERE EMPLOYED: 907-277-1561
SOCIAL SECURITY NUMBER: 569-52-2466
OCCUPATION: Wildlife Biologist
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
U.S.D.I. Bureau of Land Management

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Management of public lands of the United States
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Curt McVee, State Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Various Alaska locations including, Fortymile River, Black River, Christian River, Yukon River, Naval Petroleum Reserve, Alyeska Pipeline Corridor, Portage Management Area, Denali Highway, and other areas.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list licenses or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Permit pending - State of Alaska

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: June 7, 1976

11. DURATION NEEDED: 3 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Curtis V. McVee, State Director
DATE: June 1, 1976

3-200
6/76

### DESCRIPTION OF PROJECT

The baseline study of nesting raptors is a continuation of the project begun last year in cooperation with FWS. It was funded by BLM and FWS with close coordination and some assistance from ADFG. The project consists of a visual inventory of nesting raptors, including but not limited to, the endangered American and arctic peregrine falcon.

Other raptors inventoried include bald and golden eagles, gyrfalcons, ospreys, and other hawks. The purpose of the inventory is to provide base data for long range land-use planning in order to insure protection to these species and their habitats.

The project is to continue this year with some cooperative effort from the U.S. Forest Service and the National Park Service. Areas to be inventoried include the Black River and its tributaries, the Charley River, the 40 Mile River, parts of the lower Yukon and Kuskokwim

drainages, and the Sagwon area of the Sagavonirktok River. Other areas may be checked if time permits.

Alaska Department of Fish and Game and Fish and Wildlife Service personnel will also assist in the project.

It is expected that the inventory work will be completed by late August. All cooperating agencies will receive a copy of the final report, maps, etc. This should be completed by September 15, 1976.

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. Species: Peregrine Falcon, *Falco peregrinus*. Activity: To improve and stabilize nest sites of the peregrine falcon and other raptors at the Sagwon Bluffs; if necessary, to install artificial nest structures.

2. The birds are and will remain in the wild.

3. Resume: (By BLM Biologists).

1974: Sagavnirktok River: Pipeline construction stipulations
1975: Noatak River: Raptor Survey (with Dr. John Haugh).
1975: Upper Yukon River: Raptor survey
1975: Yukon River: Raptor Survey (Yukon Flats to Tanana)

4. NA.

5. NA.

6. NA.

7. Contracts: No contract, BLM Force Account.

8. (i) This permit will enable the BLM to improve and stabilize several nest sites used by peregrines and other raptors at the Sagwon Bluffs. Nest stabilization would be accomplished by improving the existing sites with hand tools or in some cases installing artificial structures which the peregrines would accept and use.

(ii). These activities would be carried out by wildlife biologist at the BLM during the summer of 1976, after that breeding season is over. The biologist would improve the nest sites as necessary in late August or September, so no disturbance of this years' breeding attempts will occur. The artificial nest structures will be made of wood using examples of Richard Fyfe (Canadian Wildlife Service), Tom Cade (Cornell University) and others who have had experience in making and installing man-made nest structures.

(iii) The stabilization of these nest sites is necessary because of the very poorly consolidated formation of the Sagwon Bluffs, and in years past loss of young due to rock slides because of the unstable nature of the bluffs.

(iv) NA.

(v) All work will be done after review and approval of the peregrine Recovery Team.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before July 12, 1976.

Dated: June 7, 1976.

RICHARD M. PARSONS,
*Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.76-16776 Filed 6-9-76;8:45 am]

## ENDANGERED SPECIES PERMIT

### Receipt of Application for Amendment

A permit authorizing scientific research activities with ALEUTIAN CANADA GEESE (*Branta canadensis leucopareia*), was issued to Gordon W. Watson, Alaska Area Director, U.S. Fish and Wildlife Service, Anchorage, Alaska, on March 18, 1975.

A notice containing the application for the permit was published in the FEDERAL REGISTER on January 7, 1975 (40 FR 1283–84), soliciting public comments for a period of 30 days.

A notice of the issuance of the permit was published on August 5, 1975 (40 FR 32849–50).

Under date of May 10, 1976, the Deputy Area Director, Alaska Area Office, Anchorage, Alaska, has submitted a request for an amendment to the permit. Published herewith is a copy of the terms of the permit, and the request for an amendment. This request is being considered pursuant to § 13.23, Title 50 Code of Federal Regulations (see 39 FR 1162).

U.S. FISH AND WILDLIFE SERVICE,

*May 10, 1976.*

To: SAC Hester, LE, WDC.
From: Deputy Area Director Hansen, Alaska Area Office, Anchorage, Alaska.
Subject: Revision of Endangered Species Permit PRT 8–100–C.

This memo is a follow-up to our fax-form of 05/05/76 and ASAC Hood's conversation with you on the same date, concerning needed revisions of the above permit. These revisions have been requested by the Aleutian Canada Goose Recovery Team, after discussions with the Permit Coordinator and his staff.

Because of the recent recoveries of banded geese on the wintering grounds, an expansion of the area of research has become very apparent. Precise determinations of where and when the birds are on their wintering areas are badly needed if we are to provide maximum protection from hunting pressure.

In addition, expanded authority is needed to transport birds to and from Patuxent Wildlife Research Center for propagation and research studies. The feasibility of establishing additional captive flocks of geese at other research stations will also be looked into by persons working under the permit.

The research conducted outside of Alaska will be done by members of the Recovery Team. Since some of the members do not fit into the "catagories" listed in 11 C of the permit, the coverage of the permit needs to be broadened.

The various changes in 11 D 1 are made for the following reasons:

1. The trapping and additional handling procedures may be expanded to areas other than the Aleutian Island, NWR; and

2. There is a need to provide some wild-caught birds to Patuxent and possibly other research stations for research and new breeding stock. Also, this change would allow for the return to Patuxent of injured birds or captive-reared individ-

uals that did not appear to be going to survive in the wild.

New authorization is needed on the permit to allow for the importation of any dead or injured birds that might turn up in Canada or Mexico. Contact has already been made with officials in British Columbia, and we have been assured that if any birds are obtained there, they would be made available to the Recovery Team for research purposes. Currently there are no records of these geese occurring in Mexico, but individuals have turned up at Salton Sea, so straggling into Mexico could occur. If any birds did become available from Mexico, the Recovery Team would be very interested in obtaining them.

If you have any questions about this request, please contact me. We do need this authorization as soon as possible, since the field season is drawing near.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

3-201 (7/74)

1. PERMITTEE

Gordon W. Watson
Alaska Area Director
U.S. Fish and Wildlife Service
813 D Street
Anchorage, Alaska 99501

2. AUTHORITY - STATUTES
16 U.S.C. 1539(a)
REGULATIONS (Attached)
50 C.F.R. 17.23

3. NUMBER
PRT-8-100-C

4. RENEWABLE: ☐ YES ☒ NO
5. MAY COPY: ☒ YES ☐ NO
6. EFFECTIVE: MAR 18 1975
7. EXPIRES: 12/31/77

8. NAME AND TITLE OF PRINCIPAL OFFICER (If not an individual)

9. TYPE OF PERMIT
Endangered Species

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
State of Alaska (primarily Aleutian Island NWR)

11. CONDITIONS AND AUTHORIZATIONS

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK 2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE and any person who is under the direct control of, or who is employed by or under contract to, the permittee.

D. 1. You may trap or capture, hold temporarily, band or otherwise mark, radio-tag, weigh, measure, extract blood samples and feathers, disturb for scientific purposes, salvage and hold for rehabilitation purposes, and transport as necessary Aleutian Canada geese (Branta canadensis leucopareia) on the Aleutian Islands National Wildlife Refuge. Birds may be transferred from Buldir Island to other locations within the Refuge in order to attempt to establish new breeding locations. Captive-reared Aleutian Canada geese may be transported from Patuxent Wildlife Research Center to the Aleutian Islands NWR, held temporarily and then released on the refuge; these birds may be radio-tagged, banded or otherwise marked.

☒ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

12. REPORTING REQUIREMENTS

ISSUED BY: s/ Loren K. Parcher — TITLE: Chief, Division of Law Enforcement — DATE: MAR 18 1975

DISTRIBUTION

☆U.S. Government Printing Office: 1974 - o-544-818

2. Activities conducted under authority of this permit must be for official business.

E. 1. Permittee must have a copy of this permit in his possession while conducting the activities authorized.

REPORTING REQUIREMENTS

A report summarizing the activities conducted under this permit to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, within 30 days after close of each calendar year.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Services's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before July 12, 1976.

Dated: June 3, 1976.

LOREN K. PARCHER,
*Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.76-16777 Filed 6-9-76;8:45 am]

## National Park Service

### INDEPENDENCE NATIONAL HISTORICAL PARK ADVISORY COMMISSION

#### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Independence National Historical Park Advisory Commission will be held at 10:30 a.m. on June 29, 1976, at 313 Walnut Street, Philadelphia, Pennsylvania.

The Commission was established by Public Law 80-795 to render advice on such matters relating to the park as may from time to time be referred to them for consideration.

The members of the Commission are as follows:

Mr. Arthur C. Kaufmann (Chairman)
Mr. John P. Bracken
Hon. Michael J. Bradley
Hon. James A. Byrne
Mr. Michael J. Byrne
Mrs. Richard Lonsdorf
Mr. Filindo B. Masino
Mr. John B. O'Hara
Mr. Frank C. P. McGlinn
Mr. Howard D. Rosengarten
Mr. Charles R. Tyson

The matters to be considered at this meeting include:

1. Recognition of new member.
2. Review of attendance at Park facilities.
3. July 4—Independence Day Program
4. Visit of Queen Elizabeth II
5. Superintendent's Report

The meeting will be open to the public. Any person may file with the Commission an oral or written statement concerning the matters to be discussed. Persons desiring further information concerning this meeting, or who wish to submit statements, may contact Hobart G. Cawood, Superintendent, Independence National Historical Park, Philadelphia, Pennsylvania, at 215-597-7120.

Minutes of the meeting shall be available for inspection two weeks after the meeting at the office of the Independence National Historical Park, 313 Walnut Street, Philadelphia, Pennsylvania.

Dated: June 1, 1976.

CHESTER L. BROOKS,
*Regional Director, Mid-Atlantic Region, National Park Service.*

[FR Doc.76-16779 Filed 6-9-76;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

### GENERAL CONFERENCE COMMITTEE OF THE NATIONAL POULTRY IMPROVEMENT PLAN

#### Public Meeting

Pursuant to the provisions of the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–779) notice is hereby given that a public meeting of the General Conference Committee of the National Poultry Improvement Plan will be held on July 6 in the Board Room, Sheraton-Boston Hotel, Boston, Massachusetts. The meeting is open to the public and will convene at 1 p.m. Members of the public may submit comments before or after the meeting.

The purpose of the meeting is to review the duties of the Committee members when they serve as Chairmen or Cochairmen of the four committees established to give preliminary consideration to the proposed changes to the National Poultry Improvement Plan provisions which will be voted on by official delegates to the National Plan Conference. If any proposed changes are late in being submitted to the Department, the Committee will rule on whether or not they will be allowed to be considered by the Delegates. Also to be discussed is the Committee members' role in presenting these proposed changes to the delegates for voting on the final day of the Conference.

The National Plan Conference will be held in the Sheraton-Boston Hotel on July 7–9.

Copy of the agenda and further information concerning the meeting may be obtained by contacting Dr. James W. Smith, Chairman, Animal Physiology and Genetics Institute, ARS, Building 161, BARC-East, Beltsville, Maryland 20705. His telephone number is 301/344–2259.

Done at Washington, D.C. this 26th day of May, 1976.

T. W. EDMINSTER,
*Administrator,*
*Agricultural Research Service.*

[FR Doc.76–16796 Filed 6–9–76;8:45 am]

### Forest Service

### LAND USE PLAN, VOLCANOVILLE PLANNING UNIT—ELDORADO NATIONAL FOREST

#### Notice of Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Land Use Plan, Volcanoville Unit, Eldorado National Forest, California USDA–FS–R5–DES(Adm)–76–5.

The environmental statement concerns a proposed land use plan for the 16,900 acres of National Forest land known as the Volcanoville Unit of the Eldorado National Forest in El Dorado County, California. There are no inventoried roadless areas within the planning unit.

The draft environmental statement was transmitted to the Council on Environmental Quality (CEQ) on June 2, 1976.

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

USDA, Forest Service, South Agriculture Bldg., Rm. 3204, 12th St. & Independence, SW., Washington, D.C. 20250.
Forest Supervisor, Eldorado National Forest, 100 Forni Road, Placerville, CA 95667.
Regional Forester, U.S. Forest Service, Rm. 529, 630 Sansome Street, San Francisco, CA 94111.
Forest Service, District Ranger, Georgetown, California 95634.

A limited number of single copies are available, upon request, from Forest Supervisor Joseph H. Harn, Eldorado National Forest, 100 Forni Road, Placerville, California 95667.

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

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

Comments concerning the proposed action, and requests for additional information should be addressed to Forest Supervisor Joseph H. Harn, Eldorado National Forest, 100 Forni Road, Placerville, California 95667. Comments must be received on or before August 9, 1976 to CEQ in order to be considered in the preparation of the final environmental statement.

Dated: June 2, 1976.

DOUGLAS R. LEISZ,
*Regional Forester.*

[FR Doc.76–16805 Filed 6–9–76;8:45 am]

### SOUTH KAIBAB GRAZING ADVISORY BOARD

#### Meeting

The South Kaibab Grazing Advisory Board will meet at 9:30 a.m. July 10, 1976, at the Williams Country Club, Williams, Arizona.

The following items will be discussed:

1. Minutes of July 7, 1975 Advisory Board meeting.
2. Grazing fees—how established and adjusted.
3. Off road vehicle policy.
4. Communication between Forest Officers and grazing Permittees on activities within the allotment.
5. Range study program.
6. Forest service policy on filing for water rights under state laws.
7. Range improvements—policies, practices and financing.
8. Presentation of Supervisor's tentative FY 1977 budget and program.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Kaibab National Forest, P.O. Box 817, Williams, Arizona, telephone 635–4481. Written statements may be filed with the board before or after the meeting.

Those attending may express their views when recognized by the Chairman.

Dated: June 3, 1976.

LEONARD A. LINDQUIST,
*Forest Supervisor.*

[FR Doc.76–16861 Filed 6–9–76;8:45 am]

### SAMUEL R. MCKELVIE NATIONAL FOREST GRAZING ADVISORY BOARD

#### Meeting

The Samuel R. McKelvie National Forest Grazing Advisory Board will meet at 2:00 P.M., MDT, July 10, 1976, at the Niobrara Ranger Station, located 19 miles south of Nenzel, Nebraska.

The purpose of this meeting is to elect advisory board members and officers and to discuss various grazing resource management practices.

The meeting will be open to the public. Persons who wish to attend should notify the District Ranger, Bessey Ranger District, Halsey, Nebraska 69142, phone (308) 533–2257.

The Committee has established the following rules for public participation:

1. Members of the public may present oral statements at any time during discussions.
2. Any member of the public who wishes to do so should file a written statement with the Committee, either before or after the meeting.

LAWRENCE C. SUTTON,
*Forest Supervisor.*

JUNE 4, 1976.

[FR Doc.76–16804 Filed 6–9–76;8:45 am]

### Office of the Secretary

### AGRICULTURAL GRANT AND AGREEMENT REGULATIONS

#### Promulgation of Policies and Procedures for Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects

On April 13, 1976, there was published in the FEDERAL REGISTER (41 FR 15464), a notice promulgating interim policies and procedures to implement the Office of Management and Budget Circular No. A–95, Revised, January 2, 1976, as published in the FEDERAL REGISTER of January 13, 1976, (41 FR 2052). The Circular provides guidance to Federal agencies for cooperation with State and local governments in the evaluation, review, and coordination of Federal and federally assisted programs and projects.

The policies and procedures were issued and made effective on April 13, 1976, on an interim basis.

Interested persons were invited to submit written comments and views concering the interim regulations no later than April 23, 1976, as to whether they should be adopted as final implementing

procedures and regulations as written or whether they should be revised before such adoption.

No public comments were received. Limited internal comments indicated need for additional clarification of three paragraphs:

Paragraph 553. c. 4. is revised to read:

4. Insuring that agency implementing procedures notify potential applicants that public agencies charged with enforcing or furthering the objectives of State and local civil rights laws should be provided opportunity by appropriate clearinghouses to participate in the review process established under Part I of the Circular.

Paragraph 557. c. is revised to read:

c. Agencies shall insure that applicants submitting Federal Management Circular 74–7 Preapplication Forms (See EXHIBIT 12—4 AR 442—Form AD 621) for projects covered under Part I of the Circular No. A–95, have submitted copies of the form to the appropriate clearinghouse(s). Copies of the form should be submitted to the clearinghouse(s) for information purposes at the same time they are submitted to agency program offices.

Paragraph 557. f. is revised to read:

f. Agency regulations and procedures shall advise applicants of those Departmental programs requiring environmental impact information. Applicants should also be advised that comments from the clearinghouse(s) on the environmental significance of proposed projects should be submitted with project applications.

Paragraph 602. d. 1. is revised to read:

1. If the applicant is other than the areawide comprehensive planning agency, Departmental agency procedures shall include provisions for memorandums of agreement between the applicant and the areawide comprehensive planning agency to insure that related planning and development activities under other Federal programs in multijurisdicational areas are consistent with activities of the areawide comprehensive planning agency. Such agreements should cover matters listed in paragraph 3 of Part IV of the Circular (see Exhibit 37 for sample agreement).

Accordingly, the interim policies and procedures are adopted as final implementing procedures and regulations with changes as set out above.

Effective Date: June 10, 1976.

Dated: June 7, 1976.

J. PAUL BOLDUC,
*Assistant Secretary for Administration.*

[FR Doc.76–16795 Filed 6–9–76;8:45 am]

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## FEDERAL CROP INSURANCE CORP.

### Organization, Functions, and Delegations of Authority

The notice of Organization, Functions, and Delegations of Authority of the Federal Crop Insurance Corporation appearing in 40 FR 52424–52425 is superseded and the following is substituted therefor:

SUBPART A—ORGANIZATION

Sec.
1. Creation.
2. Stock.
3. Management.
4. Board of Directors.
5. Offices of the Corporation.
6. Availability of information and records.

SUBPART B—FUNCTIONS AND PROCEDURES

7. Crops insured.

SUBPART C—DELEGATIONS OF AUTHORITY

8. Delegations of authority affecting crop insurance contracts.

SUBPART A—ORGANIZATION

Sec. 1. *Creation.* The Federal Crop Insurance Corporation was created February 16, 1938, by the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and is an agency within the U.S. Department of Agriculture.

Sec. 2. *Stock.* All capital stock of the Federal Crop Insurance Corporation is owned by the United States.

Sec. 3. *Management.* The Management of the Federal Crop Insurance Corporation is vested in the Board of Directors, subject to the general supervision of the Secretary of Agriculture. The Manager of the Corporation is its chief executive officer, and he is appointed by and holds office at the pleasure of the Secretary of Agriculture. Under the general supervision of the Board, the Manager is responsible for the general direction and supervision of all activities of the Corporation.

Sec. 4. *Board of Directors.* The Federal Crop Insurance Act provides that the Board of Directors shall consist of the Manager of the Corporation, two other persons employed in the Department of Agriculture, and two persons experienced in the insurance business who are not otherwise employed by the Government. The Board is appointed by and holds office at the pleasure of the Secretary of Agriculture.

Sec. 5. *Offices of the Corporation.* The principal office of the Federal Crop Insurance Corporation is composed of the Office of the Manager and seven division and staff offices. The Office of the Manager and other components of the principal office are located at Washington, D.C. 20250, in the South Agriculture Building, except that the National Service Office and the Actuarial Division are located at 8930 Ward Parkway, Kansas City, Missouri 64141.

(1) *Office of the Manager.* The Office of the Manager is composed of the Manager and his immediate staff, including a Deputy Manager. Within established policies and regulations, the Manager is responsible for the executive direction, coordination, and control of the Corporation's programs and activities, the determination of goals and objectives, and the approval of plans, methods and procedures proposed or used.

(i) *Research and Development Staff.* The Research and Development Staff collaborates with the Office of the Manager in devising and developing research studies on insured and uninsured crops and counties, the effects of changing climatological conditions and technological developments, and new insurance concepts and territories. It researches and develops proposed insurance programs, forms and related procedures. It collaborates with other agencies, commodity groups, handlers, and processors on proposed projects and research related to new crop insurance programs. It prepares and issues specific and periodic reports and coordinates material for the Board of Directors. It is also responsible for contract development and revision and preparation of insurance regulations and Federal Register notices. It participates in the preparation of legislative proposals and reports. It prepares the Annual Report to Congress.

(2) *Actuarial Division.* The Actuarial Division, which is located at 8930 Ward Parkway, Kansas City, Missouri 64141, formulates and advises management on actuarial/underwriting policies of the Corporation; establishes and revises insurance coverages and rates for crops insured by county; develops actuarial/underwriting formulas and techniques for measuring insurance risks; devises methods for accumulating statistical data for actuarial analyses; develops and issues actuarial/underwriting procedures, instructions and forms; develops production cost by crops and counties and restricts coverage to the cost of production; and directs four regional underwriting offices. The four regional underwriting offices and states comprising the regions are:

(i) *North Central Regional Underwriting Office,* Room 106, U.S. Post Office and Courthouse, Springfield, Illinois 62701—Serving Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Pennsylvania (Erie County), Wisconsin, and New York.

(ii) *Southeast Regional Underwriting Office,* Room M–116, U.S. Post Office and Federal Building, 401 North Patterson Street, Valdosta, Georgia 31601—Serving Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania Counties except Erie County, South Carolina, Tennessee, and Virginia.

(iii) *Southwest Regional Underwriting Office,* 50th & N. Pennsylvania, Suite 1410, 50 Penn Place, Oklahoma City, Oklahoma 73118—Serving Arizona, California, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas.

(iv) *Northwest Regional Underwriting Office,* 2602 First Avenue, North, Room 219, Billings, Montana 59103—Serving Idaho, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, Wyoming, and Utah.

(3) *National Service Office.* The National Service Office is located at 8930 Ward Parkway, Kansas City, Missouri 64141. This office performs the accounting functions of the Corporation, including administrative and program cost ac-

counts through use of automatic data processing, performs contract servicing and audit functions, develops statistical information and prepares statistical and financial reports; processes claims and computes and schedules indemnities for payment; and serves as the central supply and distribution center for forms and procedures.

(4) *Operations Division.* This Office formulates and recommends policy and advises management on the development of operations programs, directs a coordinated Marketing and Contract Service program, including all phases of FCIC's sales, claims, loss adjustment, public relations, and field servicing activities. The two staffs and functions which they perform within established policies and regulations and subject to the direction of the Director, Operations Division, are as follows:

(i) *Contract Service Staff.* This staff plans and coordinates all Crop Insurance Contract Service activities, including developing programs, issuing procedures and instructions, and training personnel. It recommends policies, devices and installs systems, methods, procedures, instructions, forms, and techniques assuring consistent and equitable adjustment of losses and processing of claims for insured crops and inspection and/or review of applications or acreage reports involving high liability, transfers of interests, unit agreements or unusual or controversial claims. It develops and implements recruiting, training, supervision, career development and incentive programs, standards, and performance appraisal methods and techniques for loss adjusters. It advises and assists Regional Directors and Contract Service Branch Chiefs with plans, problems, training and recruiting. It serves as a support group in assisting the Director, Operations Division, in carrying out his supervisory functions. It also reviews and recommends proposed contract changes.

(ii) *Marketing Staff.* This staff develops overall marketing promotion and business retention plans, commodity sales plans, product lines, product mix, product quotas, and collection procedure. It reviews and recommends proposed contract changes. It develops overall sales training programs, methods, and techniques. It develops sales aids and promotional materials. It develops uniform reporting systems and sales performance evaluation techniques. It prepares procedures, instructions, and forms required. It develops sales incentive systems, qualification standards, and performance appraisal methods and techniques for sales personnel. It works with private insurance groups, communications media, other governmental and nongovernmental agencies, farm organizations, and business groups to promote better understanding and acceptance of the purpose and value of crop insurance. It advises and assists Regional Directors and Marketing Branch Chiefs with plans, problems, training, and recruiting. It also serves as Washington representative to close large and complex sales and to stimulate sales campaigns. It maintains continuous review of sales, programs, and activities procedures. It serves as a support group in assisting the Director, Operations Division, in carrying out his supervisory functions.

(iii) *Regional Offices.* There are 14 Regional Offices serving the states in which crop insurance is being offered. Each Regional Office is under the supervision of a Regional Director who is responsible for the general administration of the loss adjustment, claims, servicing programs, sales and collections in his assigned territory, recruiting and training personnel, advising management and recommending contract and other changes. The Regional Director conducts his activities through a Contract Service Branch, a Marketing Branch, and a Support Operations Branch. Claims specialists and assistants supervise and coordinate the loss adjustment and service work of fieldmen under the Contract Service Branch. District and area sales supervisors coordinate the sales and collection work of fieldmen in a specified group of counties under the Marketing Branch. Offices for the county are under the Support Operations Branch. Regional Offices with the territories which they serve are as follows:

*North Dakota:* Room 234, Federal Building, 220 East Rosser Avenue, Bismarck, North Dakota 58501.

*Texas, Oklahoma, New Mexico:* USDA Building, College Station, Texas 77840.

*Georgia, Florida, South Carolina, and the following Alabama counties: Baldwin, Barbour, Coffee, Conecuh, Covington, Crenshaw, Dale, Escambia, Geneva, Henry, Houston, Pike:* Room 303, 240 Stoneridge Drive, One Greystone West Building, Columbia, South Carolina 29210.

*Iowa and the following Missouri counties: Adair, Andrew, Atchison, Audrain, Boone, Buchanan, Caldwell, Callaway, Carroll, Cass, Chariton, Clark, Clinton, Cooper, Daviess, De Kalb, Franklin, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Knox, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Monroe, Montgomery, Nodaway, Pettis, Pike, Platte, Ralls, Randolph, Ray, St. Charles, Saline, Scotland, Shelby, Sullivan, Worth:* 509 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.

*Arizona and the following California counties: Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Joaquin, Stanislaus, Tulare:* Room 4110, Federal Building, U.S. Courthouse, 1130 "O" Street, Fresno, California 93721.

*Mississippi, Arkansas, Louisiana, and the following Alabama counties: Blount, Cherokee, Chilton, Colbert, Cullman, Dallas, De Kalb, Etowah, Hale, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marshall, Morgan, Pickens, Shelby, Tuscaloosa:* Room 610 Milner Building, 200 South Lamar Street, Jackson, Mississippi 39201.

*Montana and the following Wyoming counties: Big Horn, Park, Washakie:* 2602 First Avenue, North, Billings, Montana 59103.

*Nebraska, South Dakota, and the following Wyoming counties: Goshen, Laramie, Platte:* Room 443, Federal Building, U.S. Courthouse, 100 Centennial Mall, Lincoln, Nebraska 68508.

*Kansas, Colorada, and the following Missouri counties: Barton, Bates, Dade, Jasper, Lawrence, Vernon:* 2601 Anderson Avenue, Manhattan, Kansas 66502.

*Tennesee, Kentucky, the following Missouri Counties: Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott, Stoddard; and the following Virginia counties:* Lee, Russell, Scott, Smyth, Washington: U.S. Courthouse, Room 508, Nashville, Tennessee 37203.

*North Carolina, Delaware, Maryland, the following Pennsylvania counties: Adams, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry, York; and the following Virginia counties: Amelia, Appomattox, Brunswick, Campbell, Charlotte, Cumberland, Dinwiddie, Franklin, Greensville, Halifiax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nansemond, Nottoway, Patrick, Pittsylvania, Prince Edward, Prince George, Southampton, Surry, Sussex:* Room 612 Federal Office Building, 310 New Bern Avenue, Raleigh, North Carolina 27601.

*Illinois, Michigan, Ohio, Indiana, New York, and Erie County in Pennsylvania:* Atkinson Square West, Suite 1501, 5610 Crawfordsville Road, Indianapolis, Indiana 46224.

*Washington, Oregon, Idaho, Utah, and Modoc County in California:* Room 369, U.S. Courthouse, West 920 Riverside Avenue, Spokane, Washington 99201.

*Minnesota and Wisconsin:* Room 222, Federal Building and U.S. Courthouse, 316 Robert Street, St. Paul, Minnesota 55101.

(A) *Office for the County.* Field offices serving one or more counties are established to administer the crop insurance program at the local level. Most of these offices are staffed by regular employees of the Corporation. These offices are charged with the responsibility of servicing crop insurance contracts. They receive, process and transmit applications for insurance, contract changes, acreage reports, premiums, notices of loss and notices of cancellation, and related forms to Regional and National Service Offices as required. Some counties are handled by agents under contract with the Corporation to only sell the insurance and in others to both sell and service the insurance. The county actuarial table, which shows the premium rates and coverages available and the insurable acreage in the county, is on file in the office for the county and available for public inspection. Changes in insurance contracts to be effective for a coming crop year are also filed in the office for the county and are available for public inspection. Forms which are required to be used in connection with crop insurance contracts may be obtained at the office for the county upon request. The location of the office serving any county may be obtained from the Regional Office.

(5) *Administrative Management Division.* This division formulates and recommends policy and advises management on the development of administrative programs. It directs a coordinated Budget, Finance, Administrative Services, and Personnel program. It plans, directs, and coordinates the fiscal, budget and accounting activities of the Corporation with respect to both capital and administrative funds. It plans, directs, performs and coordinates procurement, space, communications, records, and paperwork management functions. It plans, directs, performs, and coordinates personnel functions, including organiza-

tion and manpower planning, recruiting, staffing, placement and utilization, position classification, employee development, Equal Employment Opportunity, employee and labor relations, safety, health, and disciplinary actions.

Sec. 6. *Availability of information and records.* Any person desiring information with respect to crop insurance may request such information from the office for his county, from the Regional Director for his State, or from the Manager, Federal Crop Insurance Corporation, United States Department of Agriculture, Washington, D.C. 20250. Records of the Corporation, including those maintained in the field offices, are currently available for examination in accordance with the rules issued by the Secretary of Agriculture (7 CFR 1.1 et seq.) and the Corporation (7 CFR Part 412).

SUBPART B—FUNCTIONS AND PROCEDURES

Sec. 7. *Crops insured.* (a) The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.) authorizes the Corporation to insure crops against unavoidable losses for the purpose of determining the most practical plan, terms and conditions of insurance for agricultural commodities. Crop insurance may be offered in each year in not to exceed 150 counties in addition to the number of counties in which such insurance was offered in the preceding year. Insurance may be offered each year on not more than three agricultural commodities in addition to those previously insured, except that other agricultural commodities may be included in combined crop insurance (insurance on two or more agricultural commodities under one contract with a producer). Insurance within the limitation set forth above is now offered on wheat, cotton, flax, corn, tobacco, dry beans, citrus, soybeans, barley, peaches, grain sorghum, oats, rice, raisins, peanuts, peas, apples, tomatoes, sunflowers, sugar beets, sugarcane, grapes, and combined crops.

(b) Regulations governing current insurance programs may be found in the FEDERAL REGISTER and in Title 7, Code of Federal Regulations, Parts 401 through 404, 406, and 408 through 413.

SUBPART C—DELEGATIONS OF AUTHORITY

Sec. 8. *Delegations of authority affecting crop insurance contracts.* The authority delegated by this section to act on behalf of the Corporation in matters affecting crop insurance contracts shall be exercised in accordance with established policies and procedures and subject to the supervision and direction of the Manager. This delegation of authority shall not prcelude the Manager from exercising the same authority whenever he deems it necessary under the circumstances.

(a) *Delegations to Regional Directors.* Each Regional Director, in the state or states served by his office, is authorized to: Reject applications for crop insurance; cancel crop insurance contracts in accordance with their terms (but the voidance of a contract for the misrepresentation or fraud of an insured is reserved to the Manager of the Corporation); accept or reject proposed agreements with insureds for the division of insured acreage in a county into two or more insurance units, where a crop insurance contract so provides; approve or reject a transfer of interest under an insurance contract; recommend approval or rejection of claims in accordance with administrative procedure; determine the insured acreage and interest or declare the insured acreage to be zero where the insured fails to timely file an acreage report or files an acreage report which is found to be erroneous; and determine when replanting of an insured crop is practical.

(b) *Delegations to Fieldmen.* The fieldmen (known as "Adjuster") assigned to make an inspection of insured acreage, after notice of loss and a request by the insured for consent to put such acreage to another use, is authorized to give such consent in writing on behalf of the Corporation in accordance with the policy and the applicable endorsement and loss adjustment procedure.

(c) *Delegation to Director, National Service Office.* The Director of the National Service Office is authorized to accept applications for insurance, changes in elections, and contract reinstatements; to process, suspend, approve or reject claims for indemnity, and to adjust, cancel, or terminate or suspend collection action with respect to claims for premiums under Public Law 518 (12 U.S.C. 1150 and 1151) and the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953).

Approved by the Board of Directors on May 12, 1976.

[SEAL] PETER F. COLE,
*Secretary,*
*Federal Crop Insurance Corporation.*

Approved: June 7, 1976.

JOHN A. KNEBEL,
*Acting Secretary.*

[FR Doc.76-16879 Filed 6-9-76;8:45 am]

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### Soil Conservation Service

### BUCK AND DOE RUN CREEKS WATERSHED PROJECT, MISSOURI

#### Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500) and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Buck and Doe Run Creeks Watershed Project, Clark and Lewis Counties, Missouri.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by one single purpose floodwater retarding structure, one grade stabilization structure and 2.3 miles of channel work on a manmade intermittent stream.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service. Parkade Plaza Shopping Center, Terrace Level, 601 Business Loop 70 West, Columbia, Missouri 65201.

A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until June 25, 1976.

Dated: June 3, 1976.

JAMES W. MITCHELL,
*Deputy Administrator for Water Resources, Soil Conservation Service.*

[FR Doc.76-16806 Filed 6-9-76;8:45 am]

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## DEPARTMENT OF COMMERCE

### Maritime Administration

[Docket No. S-512]

### FARRELL LINES INC.

#### Notice of Application

Notice is hereby given that Farrell Lines Incorporated, One Whitehall Street, New York, New York 10004, has filed an application dated May 28, 1976, as supplemented June 1, 1976, to amend its Operating-Differential Subsidy Agreement, Contract No. MA/MSB-352 (the Agreement), by adding the SS EXPORT CHAMPION, a C3-S-46b design type vessel to be chartered from American Export Lines, Inc., for an initial period of 60 days with an option for an additional 60 days. The vessel is intended for use on Farrell's Trade Route 14-1 service between U.S. Atlantic ports and ports in West Africa from the southern border of French Morocco to the southern border of Angola with privilege calls at Great Lakes ports and at Madeira, Azores, as well as, the Canary, Cape Verde and other islands adjacent to the West Coast of Africa.

Any person having an interest in the granting of the application and who would contest a finding of the Maritime Subsidy Board (Board) that the service now provided by vessels of U.S. regis-

try for the carriage of cargoes is inadequate, must on or before June 14, 1976, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201).

Each statement of interest and petition to intervene shall state whether a hearing is requested under section 605 (c) of the Merchant Marine Act, 1936, as amended, (the Act), and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application hereinabove described is one, with respect to the vessel to be operated in an essential service and served by citizens of the U.S., which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

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

Dated: June 4, 1976.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.76-16774 Filed 6-9-76;8:45 am]

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### Office of the Secretary

### PRIVACY ACT

### Notice of Additional Routine Use

In accordance with 5 U.S.C. 552a(e) (4) and (11), Section 3 of the Privacy Act of 1974 (P.L. 93-579, 88 Stat. 1896), the Department of Commerce hereby gives notice that it proposes to amend its Notice of Systems of Records by adding a new use No. 12 to the Prefatory Statement of General Routine Uses for the Systems of Records of the Department of Commerce.

Any person interested in this notice may submit written data, views, or arguments to the Assistant Secretary for Administration (Attn: Information Management Division), (Stop 206), Room 5026, U.S. Department of Commerce, 14th & E Streets, N.W., Washington, D.C. 20230 on or before July 12, 1976. The comments received will be available, as received, for public inspection at the above address between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday (except holidays).

The Systems of Records of the Commerce Department were adopted on October 2, 1975 (40 FR 45634-74), with the Prefatory Statement of General Routine Uses appearing at 40 FR 45635.

This proposed new routine use would permit the transfer of data such as that requested by the Civil Service Commission regarding a current Commission survey on sick leave, and the transfer of data for similar purposes in the future. This routine use is being added to the Prefatory Statement of General Routine Uses upon the request of the Civil Service Commission, because the existing general routine uses, although they cover many data transfers to the Civil Service Commission, do not cover all and do not cover the specific situation mentioned above. Further, since this Routine Use will be applicable to a number of Departmental Systems of Records, we are proposing it as a general routine use to avoid unnecessary repetition which would hamper the public in its review and use of the systems notices.

It is therefore proposed to amend the Department of Commerce Notice of Systems of Records by adding an additional general routine use, which is compatible with the purpose for which the Systems are maintained as follows:

12. A record in this system may be transferred, as a routine use, to the Civil Service poses; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for Commission: for personnel research purrelated manpower studies.

Dated: June 4, 1976.

JOSEPH E. KASPUTYS,
*Assistant Secretary for Administration.*

[FR Doc.76-16875 Filed 6-9-76;8:45 am]

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### DENTAL DRUG PRODUCTS ADVISORY COMMITTEE

### Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Dental Drug Products Advisory Committee by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond June 6, 1976.

Authority for this committee will expire on June 6, 1978, unless the Secretary formally determines that continuation is in the public interest.

Dated: June 3, 1976.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.76-16784 Filed 6-9-76;8:45 am]

### DRUG ABUSE RESEARCH ADVISORY COMMITTEE

### Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the FDA/NIDA Drug Abuse Research Advisory Committee by the Secretary, Department of Health, Education, and Welfare. The joint Food and Drug Administration and National Institute on Drug Abuse Committee has been reviewed for an additional period of 2 years beyond June 30, 1976.

Authority for this committee will expire June 30, 1978, unless the Secretary formally determines that continuation is in the public interest.

Dated: June 3, 1976.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.76-16785 Filed 6-9-76;8:45 am]

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### NEUROLOGIC DRUGS ADVISORY COMMITTEE

### Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Neurologic Drugs Advisory Committee by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond June 4, 1976.

Authority for this committee will expire June 4, 1978, unless the Secretary formally determines that continuation is in the public interest.

Dated: June 3, 1976.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.76-16782 Filed 6-9-76;8:45 am]

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### PSYCHOPHARMACOLOGICAL AGENTS ADVISORY COMMITTEE

### Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Psychopharmacological Agents Advisory Committee by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond June 4, 1976.

Authority for this committee will expire June 4, 1978, unless the Secretary formally determines that continuation is in the public interest.

Dated: June 3, 1976.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.76-16783 Filed 6-9-76;8:45 am]

## SCENCE ADVISORY BOARD TO THE NATIONAL CENTER FOR TOXICOLOGICAL RESEARCH

### Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Science Advisory Board to the National Center for Toxicological Research by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond June 2, 1976.

Authority for this board will expire June 2, 1978, unless the Secretary formally determines that continuation is in the public interest.

Dated: June 3, 1976.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.76-16786 Filed 6-9-76;8:45 am]

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[Docket No. 76N-0210]

## RECOMMENDATIONS CONCERNING MAMMOGRAPHY

### Invitation To Submit Data, Information, and Views

The Food and Drug Administration (FDA) is inviting the submission of data, information, and views on voluntary radiation safety recommendations to minimize unnecessary radiation exposure associated with mammographic examinations. Comments and data should be submitted by September 8, 1976 to: Office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

The Food and Drug Administration, through the Bureau of Radiological Health and under authority of the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602, 42 U.S.C. 263b et seq.), conducts and supports research, training, and operational activities to minimize unnecessary exposure of the public to electronic product radiation. In carrying out the purposes of the act, the Commissioner of Food and Drugs is authorized to make such recommendations relating to the control of electronic product radiation as he considers appropriate (42 U.S.C. 263d). In this capacity, the Commissioner is considering the development of recommendations to health practitioners and public health officials concerning minimization of unnecessary radiation exposure in the conduct of mammographic examinations.

These recommendations would be among several that will be proposed by the Commissioner concerning the hazards and control of electronic product radiation or radiation from other sources. Some of these recommendations may be established in areas or activities inappropriate for mandatory control and thus would be voluntary. They will be developed in cooperation with national scientific and technical authorities and representatives of professional, public, and private groups that have an interest and knowledge in the field. The recommendations would therefore represent a consensus of expert opinion upon which individual practitioners and allied health personnel can rely. These recommendations, which will provide guidance on techniques for reducing unnecessary exposure to electronic products or other sources of radiation, would be implemented through educational programs and cooperative activities with professional organizations and State health agencies. This notice is being issued pursuant to FDA policy of early public participation in the development of radiation protection recommendations by the agency.

Mammography is currently a widely used and accepted diagnostic examination for breast cancer detection. Practitioners employ several mammographic techniques. The range of radiation exposures associated with proper use of these techniques has been reported to be from less than 1 to over 10 roentgens per view at the surface of the breast, with 2 or 3 views of each breast comprising a typical examination. This variability in exposure is due to a variety of factors, some of which relate to the equipment and technique used and others which relate to the specific diagnostic information of interest. A large segment of the adult female population is likely to undergo a number of mammographic examinations and thus may be subject to a significant exposure to ionizing radiation.

The medical community and public health officials are currently developing methods to minimize the radiation exposure associated with mammography, while still retaining the desired diagnostic information. The Food and Drug Administration has encouraged the implementation of facility-based quality assurance programs in all diagnostic x-ray facilities, including mammography facilities. The goal of such programs is to assure that the facility will produce consistently high quality radiographs at minimum cost and minimum patient exposure.

An advanced notice of the intent to develop quality assurance recommendations was published in the FEDERAL REGISTER of May 7, 1976 (41 FR 18863). Other FDA activities, such as the publication of quality assurance procedure manuals, the development of equipment catalogs, etc., will provide guidance to diagnostic x-ray facilities as an aid to implementation of individual quality assurance programs. These facility-based programs are expected to minimize unnecessary radiation exposure during all diagnostic x-ray examinations, including mammographic examinations.

Because of the extra potential for high exposure in mammographic examinations, the Commissioner proposes to pursue two additional concurrent projects to minimize unnecessary radiation exposure in this area:

1. The Bureau of Radiological Health has begun pilot tests of a state-based quality assurance program in mammography. The state-based program is designed to identify mammography facilities requiring special attention. In conjunction with one State and one local health department, cooperating clinical facilities are mailed thermoluminescent dosimeters to be exposed at those mammographic technique factors that are used in the craniocaudal view of the "average" breast. In addition to the dosimetry, data are also collected on the type of image receptor and processing, and on the number and age of women being examined. Facilities at which the exposure appears to be high for the image receptor used are visited by trained persons from the appropriate radiation control agency; these persons try to make recommendations to improve one or more aspects of the technique. The goal of the improved technique is to reduce exposure while retaining or improving diagnostic capability. The information obtained by these pilot studies will be used to make recommendations for state-based mammography quality assurance monitoring and followup procedures, which will be available to all radiation control agencies nationwide. This information is also expected to be of value in implementing the facility-based diagnostic X-ray quality assurance programs.

2. The Bureau of Radiological Health proposes to compile a report that will contain information on technique-equipment combinations presently being used or promoted for use. Currently, a variety of x-ray tubes, technique factors, and image receptors are employed in mammographic examinations. No consensus exists among investigators in the field on the optimal equipment or technique. It appears that the choice depends upon the experience and preference of the practitioner and upon what features he deems most important to visualize. For example, xeroradiography is claimed to be superior in visualizing ductal patterns, whereas diffuse masses may be more easily detected using film as the image receptor. This report would reference data on factors such as the following: x-ray tube target material, type and thickness of x-ray filter, peak kilovoltage, source-to-skin distance, image receptor, imaging qualities, and expected range of exposure to the patient. Such a report could then serve as a guide to the selection of the technique-equipment combination appropriate for minimizing patient dose while obtaining the desired information. The data used in compiling this report would then be used in conjunction with opinions from the medical community in developing radiation safety recommendations for equipment used in mammography.

Interested persons are invited to participate in developing the proposed recommendations by submitting written data, information, and views on the subject. Comments are particularly desired on the two items described above, namely, the state-based mammography quality assurance program and the mammography technique information

report. All such submissions should be identified with the docket number in the heading of this notice and be filed with the Hearing Clerk, Food and Drug Administration. Comments received on or before September 7, 1976 will be considered by the Commissioner in formulating the recommendations. All recommendations and technical reports that result from this study will be published and made available to all interested parties by means of a notice of availability published in the FEDERAL REGISTER.

Persons or organizations who wish to receive copies of draft recommendations, reports, and any related documents distributed for review during development of the mammography technique information report should write to the Food and Drug Administration, Bureau of Radiological Health, (HFX-440), 5600 Fishers Lane, Rockville, MD 20852.

Dated: June 4, 1976.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.76-16781 Filed 6-9-76;8:45 am]

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[Docket No. 76P-0169]

## TRI/VALLEY GROWERS

### Canned Peaches, Pears, and Fruit Cocktail Deviating From Identity Standard; Amendment of Temporary Permit for Market Testing

The Food and Drug Administration has granted Tri/Valley Growers an amendment to their temporary permit for market testing canned peaches packed in sweetened peach nectar, canned pears packed in sweetened pear nectar, and canned fruit cocktail packed in sweetened peach nectar and pineapple juice. The amendment provides for the market testing of 260,000 cases of 24/303 cans of the test canned fruits and the expansion of the marketing areas to include Milwaukee, Wisconsin: Minneapolis, Minnesota; and Dallas/Houston, Texas.

In accordance with § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), the Commissioner of Food and Drugs issued a notice published in the FEDERAL REGISTER of October 26, 1973 (38 FR 29630) that a temporary permit had been issued to Tri/Valley Growers, 100 California St., San Francisco, CA 94106, for a period of 12 months. The permit covered limited interstate market testing of canned peaches, canned pears, and canned fruit cocktail that deviate from the standards of identity for these foods under §§ 27.2, 27.20, and 27.40 (21 CFR 27.2, 27.20, and 27.40), respectively, in that the peaches and pears are packed in sweetened fruit nectar prepared from the fruit being packed. The fruit cocktail is packed in sweetened peach nectar and pineapple juice. The nectars are prepared in accordance with the stayed identity standard for canned fruit nectars under § 27.126 (21 CFR 27.126). The sweetness level for the entire contents of the can is within the 14° to 16° Brix range. The principal display panel of the labels on the canned peaches and canned pears bears the statement "in sweetened _____ _____nectar" (the blank is filled in with the name of the fruit being packed). In addition, the statement "in peach nectar for more natural flavor" or "in pear nectar for more natural flavor" appears on the label. The label on the canned fruit cocktail bears the statements "in sweetened peach nectar and pineapple juice" and "in fruit nectar for more natural flavor."

Tri/Valley Growers subsequently submitted a request for extension of the time period of the temporary marketing permit, as required by § 10.5, together with a petition to amend the definitions and standards of identity of 10 canned fruits, based on their initial limited test marketing experience. Notice of the extension and the petition was published in the FEDERAL REGISTER of February 28, 1975 (40 FR 8581). The extension provided for the market testing of 150,000 cases of 24/303 cans of the products (55,000 cases each of canned peaches and canned fruit cocktail and 40,000 cases of canned pears) for 1 year in the marketing areas of Fresno, California; Tucson/Phoenix, Arizona; and Buffalo/Syracuse, New York.

The petition proposed amendment of the identity standards to provide for fruit nectar(s) as an optional packing medium for canned peaches (21 CFR 27.2), canned apricots (21 CFR 27.10), canned prunes (21 CFR 27.15), canned pears (21 CFR 27.20), canned seedless grapes (21 CFR 27.25), canned cherries (21 CFR 27.30), canned berries (21 CFR 27.35), canned fruit cocktail (21 CFR 27.40), canned plums (21 CFR 27.45), and canned figs (21 CFR 27.70). The petition also proposed amendment of the definition section for canned fruits and fruit juices (21 CFR 27.1) to include a defintion for fruit nectars. The petition is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, for review by interested persons.

Tri/Valley Growers maintains that although there have been some favorable indications of consumer acceptance of the products, it is necessary to expand the market testing program to obtain sufficient information to assess fully the products' commercial prospects.

The Commissioner concludes that it is in the interest of consumers to amend the Tri/Valley Growers marketing permit. Accordingly, Tri/Valley Growers is permitted to expand its test marketing program to include the marketing areas of Milwaukee, Wisconsin; Minneapolis, Minnesota; and Dallas/Houston, Texas; in addition to those of Fresno, California; Tucson/Phoenix, Arizona; and Buffalo/Syracuse, New York. Tri/Valley Growers is also permitted to increase the amount of the three products to be market tested from a total of 150,000 cases of 24/303 cans of the products, as originally provided for, to a total of 260,000 cases of 24/303 cans produced at its plant at Modesto, California. Under § 10.5, all interested persons may participate in the marketing tests under the conditions that apply to Tri/Valley Growers, including the labeling requirements and the amount to be distributed (260,000 cases of 24/303 cans of the three products). The designated area of distribution does not apply to such interested persons. Any interested person who elects to participate in the marketing test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution. Along with such notification, he shall submit the labeling under which the food is to be distributed.

Dated: June 3, 1976.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.76-16780 Filed 6-9-76;8:45 am]

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## Health Service Administration

## INDIAN HEALTH SERVICE

### Indian Self-Determination; Delegation of Authority

Notice is hereby given that on May 25, 1976, the Assistant Secretary for Health superseded the March 12, 1976 delegation of authority to the Administrator, Health Services Administration (HSA), under Title I, Indian Self-Determination and Education Assistance Act, Public Law 93-638. The March 12, 1976 delegation had superseded the July 3, 1975 delegation made under this same act (40 FR 29319, July 11, 1975). In accordance with the May 25, 1976 delegation the Administrator, HSA, has made the following redelegation:

> I hereby redelegate to the Director, Indian Health Service, those authorities under Title I delegated to me by the Assistant Secretary for Health. The exercise of the authority under section 106(b) to make advance payments for any contract under section 103 is subject to the provisions that (1) there be a prior review and documented recommendation by the Director, Office of Contracts and Grants, HSA, on each proposed advance and (2) a copy of each approved advance be submitted (within two weeks of its approval) to the Director, Office of Administrative Management, Office of the Assistant Secretary for Health.

These authorities, except for authority under section 106(b), may be further redelegated with the further exception that grant and contract related authorities may be redelegated to field components of the Indian Health Service only with my prior concurrence.

This supersedes my previous delegation, effective September 2, 1975, of authorities under Title I of the Indian Self-Determination and Education Assistance Act. Previous redelegations of these authorities within the Indian Healh Service, in particular that redelegation made by the Director, Indian Health Service, and concurred in by the Administrator,

Health Services Administration, on December 17, 1975, which are consistent with the provisions of this document are continued until rescinded, superseded, or amended.

This delegation was effective May 27, 1976.

LOUIS M. HELLMAN, M.D.,
*Administrator,*
*Health Services Administration.*

[FR Doc.76-16813 Filed 6-9-76;8:45 am]

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### Office of Human Development

### TRANSPORTATION DEMONSTRATION GRANT PROGRAM

#### Announcement of Program; Correction

In FR Doc. 76-15302 appearing at page 21505 in the FEDERAL REGISTER of Wednesday, May 26, 1976, the first paragraph is corrected in the third and fourth lines by changing the date to read "January 21, 1977."

Dated: June 4 1976.

STANLEY B. THOMAS, Jr.,
*Assistant Secretary*
*for Human Development.*

[FR Doc.76-16828 Filed 6-9-76;8:45 am]

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### National Institutes of Health

### CARCINOGENESIS BIOASSAY OF CHLOROFORM

#### Availability of Report

Chloroform has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report and additional background information are available to the public.

*Summary:* A carcinogenesis bioassay of USP grade chloroform was conducted using Osborne-Mendel rats and B6C3F1 mice. Chloroform was administered orally (by gavage) in corn oil to 50 animals of each sex and at two dose levels five times per week for 78 weeks. *Rats* were started on test at 52 days of age and sacrificed after 111 weeks. The dose levels for males were 90 and 180 mg/kg body weight. Female rats were started at 125 and 250 mg/kg, reduced to 90 and 180 mg/kg after 22 weeks, with an average level of 100 and 200 mg/kg for the study. A decrease in survival rate and weight gain was evident for all treated groups. The most significant observation ($P=.0016$) was kidney epithelial tumors in male rats with incidences of: 0% in controls, 8% in the low dose and 24% in the high dose groups. Although an increase in thyroid tumors was also observed in treated female rats, this finding was not considered biologically significant. *Mice* were started on test at 35 days and sacrificed after 92-93 weeks. Initial dose levels were 100 and 200 mg/kg for males and 200 and 400 mg/kg for female mice. These levels were increased after 18 weeks to 150/300 and 250/500 mg/kg respectively so that the average levels were 138 and 277 mg/kg for males and 238 and 477 mg/kg for female mice. Survival rates and weight gains were comparable for all groups except high dose females which had a decreased survival. Highly significant increases ($P<.001$) in hepatocellular carcinoma were observed in both sexes of mice with incidences of: 98% and 95% for males and females at the high dose; 36% and 80% for males and females at the low dose as compared with 6% in both matched and colony control males, 0% in matched control females and 1% in colony control females. Nodular hyperplasia of the liver was observed in many low dose male mice that had not developed hepatocellular carcinoma.

Single copies of the 60-page report and additional background information are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: April 27, 1976.

DONALD S. FREDERICKSON,
*Director,*
*National Institutes of Health.*

[FR Doc.76-16028 Filed 6-9-76;8:45 am]

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### Office of the Secretary

### BOARD OF ADVISORS TO THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

#### Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), that the next meeting of the Board of Advisors to the Fund for the Improvement of Postsecondary Education will be held on July 11, 1976, beginning at 5:00 p.m. to July 13, 1976, 4:00 p.m. at the Whispering Pines Conference Center, West Greenwich, Rhode Island.

The Board of Advisors to the Fund is established under the Education Amendments of 1972 (P.L. 92-318, section 301 (a), adding new section 404 to the General Education Provisions Act). The Committee is established to recommend to the Director of the Fund and the Assistant Secretary for Education priorities for funding and the approval or disapproval of grants and contracts of a given kind or over a designated amount.

The meeting will be for the sole purpose of reviewing program performance and developing future program policies.

The meeting will be open to the public. A summary of the proceeding of the meeting and a roster of members may be obtained from the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, S.W., Room 3141, Washington, D.C. 20202, telephone 202-245-8091.

Signed at Washington, D.C. on June 7, 1976.

VIRGINIA B. SMITH,
*Director, Fund for the Improvement of Postsecondary Education.*

[FR Doc.76-16839 Filed 6-9-76;8:45 am]

### PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

#### Meeting

The President's Committee on Mental Retardation was established to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between Federal activities and related activities of State and local governments, foundations and other private organizations; and develop information designed for dissemination to the general public.

The Committee will meet on Thursday, July 8, 1975, registration in the afternoon and a general session from 7:30 p.m. to 9:30 p.m.; Friday, July 9, 1976, 9:00 a.m. to 5:00 p.m., and Saturday, July 10, 1976, 9:00 a.m. to noon at the Conrad Hilton Hotel, 720 S. Michigan Avenue, Chicago, Illinois. The meeting will be a regional public symposium to enable the Committee to gain information about the accomplishments, issues, and needs for programs in mental retardation and related disabilities in the States of DHEW Region V. There will also be discussion of future goals and strategies for implementing these goals in the years to come. The following States will participate: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. These meetings are open to the public.

Dated: May 25, 1976.

FRED J. KRAUSE,
*Executive Director, President's Committee on Mental Retardation.*

[FR Doc.76-16814 Filed 6-9-76;8:45 am]

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## VETERANS ADMINISTRATION

### STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

#### Notice of Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on July 7, 1976, at 10:00 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Executive Airways, Inc., Alcoa, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: June 4, 1976.

R. S. BIELAK,
*Director, VA Regional Office,*
*Nashville, Tennessee.*

[FR Doc.76-16827 Filed 6-9-76;8:45 am]

## CONSUMER PRODUCT SAFETY COMMISSION

### ALUMINUM WIRE CONNECTIONS

#### Offers To Develop Standard

The purpose of this notice is to announce that the Consumer Product Safety Commission has extended the time period within which the Commission must publish either a proposed consumer product safety sandard for aluminum wire connections or a notice withdrawing the previously published notice of proceeding to develop such a standard. This notice is also intended to apprise all interested parties of the present status of the proceeding.

BACKGROUND

In the FEDERAL REGISTER of November 4, 1975 (40 FR 51218), the Consumer Product Safety Commission published a notice commencing a proceeding for the development of a consumer product safety standard applicable to household wiring systems involving solid aluminum wire in no. 10 American Wire Gage (AWG) size and smaller diameters and all tlpes of termination devices and connections. The Commission initiated the development of such a standard after it had preliminarily determined that such aluminum wire connections presented an unreasonable risk of death or injury and that one or more consumer product safety standards are necessary to eliminate or reduce those unreasonable risks. The notice invited all interested persons to submit either of the following on or before December 4, 1975:

(1) One or more existing standards as a proposed consumer product safety standard.

(2) An offer to develop one or more proposed consumer product safety standards.

The notice also discussed in detail the background of the development proceeding, the basis for the Commission's preliminary determination of unreasonable risk of injury, the nature of the risk of injury associated with aluminum wire connections, existing standards which might be relevant to the proceeding, and the Commission's requirements and procedures for the submission of existing standards and offers to develop standards. The Commission's regulations concerning the submission of existing standards and the development of standards are set forth at Title 16, Code of Federal Regulations, Part 1105 (16 CFR 1105).

RECENT DEVELOPMENTS

In response to the invitation contained in the notice of November 4, 1975, the Commission received one submission of existing standards and one offer to develop a standard. After considering the submission and offer which were received, however, the Commission on December 30, 1975, determined that neither response was acceptable because both failed to fully comply with the regulations of the Commission and were not fully responsive to the invitation. The Commission staff was instructed to develop a plan under which the Commission itself would develop the standard under section 7(e)(2).

On March 11, 1976, the Commission received an unsolicited proposal from Battelle Columbus Laboratories to undertake and manage the development of a safety standard for aluminum wire connections. This proposal is being held for consideration in connection with the Commission's plan to develop the standard itself.

Copies of the notice of proceeding, the applicable regulations, the responses to the invitation, the unsolicited proposal, and briefing papers prepared by the Commission's staff containing evaluations of the adequacy of the submitted offer, standards, and unsolicited proposal are available from, or for inspection in, the Office of the Secretary, Consumer Product Safety Commission, 8th floor, 1750 K St., N.W., Washington, D.C. 20207 (phone 202-634-7700) during working hours.

Section 7(e) of the Consumer Product Safety Act [15 U.S.C. 2056(e)] provides that the Commission may develop a proposed consumer product safety standard itself if it has not accepted an offer to do so within 30 days after the date of publication of the notice of proceeding. In view of the fact that no acceptable offer has been received, the Commission has decided that it is desirable for the Commission to develop a proposed consumer product safety rule for aluminum wire connections under section 7(e) of the Act. Accordingly, the Commission is considering various means of developing this standard within the limitations of money and personnel which are available for this purpose.

EXTENSION

Section 7(f) of the act provides that the Commission, within 210 days after the publication of the notice of proceeding, must publish either a proposed rule or a notice withdrawing the notice of proceeding to develop a rule unless this time period is extended for good cause by a notice in the FEDERAL REGISTER. This 210-day period expired on June 1, 1976. The Commission finds, however, that additional time will be required in order to prepare a plan for the method of developing the standard and for the allocation of the Commission's resources to that task. This will include a decision of how much of the development effort will be accomplished directly by the Commission's staff and how much will be accomplished by contractors. The Commission expects that these decisions can be made within an additional ninety days, and the time period specified in section 7(f) of the act is hereby extended for ninety days, until August 30, 1976.

It should be noted, however, that the actual development of the standard will require a much longer period of time, and that a further extension of time will be required. The length of additional time which will be required depends on the particular development plan decided upon by the Commission and will be announced by a notice in the FEDERAL REGISTER.

COMMENTS AND PARTICIPATION BY THE PUBLIC

During the development of this standard by the Commission, interested person will be afforded the right and opportunity to participate in the development of the standard. For the purposes of this proceeding, interested persons include individual consumers, manufacturers, distributors, retailers, importers, trade associations, professional and technical societies, testing laboratories, Federal and State agencies, educational institutions, and consumer organizations. The procedures by which such persons may participate in the development of the standard will be announced by a notice in the FEDERAL REGISTER at a later date.

All inquiries or other communications concerning this notice should be addressed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 (phone 202-634-7700).

Dated: June 7, 1976.

SADYE E. DUNN,
*Secretary, Consumer Product Safety Commission.*

[FR Doc.76-16845 Filed 6-9-76;8:45 am]

## ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

### TASK FORCE ON DEMONSTRATION PROJECTS AS A COMMERCIALIZATION INCENTIVE

#### Notice of Meeting

JUNE 8, 1976.

In accordance with provisions of P. L. 92-463 (Federal Advisory Committee Act), the Task Force on Demonstration Projects as a Commercialization Incentive will meet on Tuesday, June 22, 1976, in Room 2010, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. The meeting will be open to the public, and begin at 9:00 am and end at approximately 4:00 p.m. The meeting is to be a working session concerned with preliminary report preparation.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements on the report preparation may do so by mailing 12 copies thereof, postmarked no later than June 18, 1976, to the Director, Office of Industry, State and Local Relations, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be directly relevant to the report preparation. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid tele-

phone call on June 18, 1976, to the Office of Industry, State and Local Relations on (202) 376-4119 between 8:30 am and 5:00 pm, e.s.t.

(c) Questions at the meeting may be propounded only by members of the Task Force and ERDA officials assigned to participate with the Task Force in its deliberations.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
*Deputy Advisory Committee Management Officer.*

[FR Doc.76-17073 Filed 6-9-76;8:45 am]

## FEDERAL MARITIME COMMISSION

### CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

#### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval 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 10126; 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, on or before June 30, 1976. 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.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 8210-32 provides that all provisions of any applicable inland European tariff shall be by two-thirds vote of members eligible and represented except that general rate increases, new or per unit rates and charges and matters pertaining to border crossing traffic shall be by unanimous vote.

By Order of the Federal Maritime Commission.

Dated: June 4, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76-16868 Filed 6-9-76;8:45 am]

### DELTA STEAMSHIP LINES, INC. ET AL.

#### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval 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 10126; 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, on or before June 30, 1976. 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.

Notice of Agreement Filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

In the matter of Delta Steamship Lines, Inc., Gulf Caribbean Marine Line, Inc. and Lykes Bros. Steamship Co., Inc., Agreement No. 10243, among the above-named parties, permits the parties to confer and agree upon rates, charges and related tariff matters affecting the trade from United States Gulf of Mexico ports in the Brownsville/Tampa range to ports in the Dominican Republic and Haiti, with each party having the right to take independent action upon 48 hours notice to the other parties.

By Order of the Federal Maritime Commission.

Dated: June 4, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76-16867 Filed 6-9-76;8:45 am]

### NORTH ATLANTIC BALTIC FREIGHT CONFERENCE

#### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval 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, NW., Room 10126; 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, on or before June 30, 1976. 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.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 7670-15 provides that all provisions of any applicable inland European tariff shall be by two-thirds vote of members eligible and represented except that general rate increases, new or per unit rates and charges and matters pertaining to border crossing traffic shall be by unanimous vote.

By Order of the Federal Maritime Commission.

Dated: June 4, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76-16866 Filed 6-9-76;8:45 am]

## NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval 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 10126; 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, on or before June 30, 1976. 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.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 9214–17 provides that all provisions of any applicable inland European tariff shall be by three-fourths vote of members eligible and represented except that general rate increases, new or per unit rates and charges and matters pertaining to border crossing traffic shall be by unanimous vote.

By Order of the Federal Maritime Commission.

Dated: June 4, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76–16871 Filed 6–9–76;8:45 am]

## NORTH ATLANTIC FRENCH ATLANTIC FREIGHT CONFERENCE

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval 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 NW., Room 10126; 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, on or before June 30, 1976. 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.

Notice of Agreement filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 7770–15 provides that all provisions of any applicable inland European tariff shall be by three-fourths vote of members eligible and represented except that general rate increases, new or per unit rates and charges and matters pertaining to border crossing traffic shall be by unanimous vote.

By Order of the Federal Maritime Commission.

Dated: June 4, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76–16870 Filed 6–9–76;8:45 am]

## SCANDINAVIA BALTIC/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval 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 10126; 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, on or before June 30, 1976. 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.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 9982–7 provides that all provisions of any applicable inland European tariff shall be by two-thirds vote of members eligible and represented except that general rate increases, new or per unit rates and charges and matters pertaining to border crossing traffic shall be by unanimous vote.

By Order of the Federal Maritime Commission.

Dated: June 4, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76–16869 Filed 6–9–76;8:45 am]

# CIVIL AERONAUTICS BOARD

[Order 76–6–25; Dockets 28670, 26471]

## DELFORD M. SMITH, ET AL.

### Order Tentatively Approving Transfer of Assets and Denying Motion To Reopen Record

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of June, 1976.

Application of Delford M. Smith; Evergreen Helicopters, Inc., Evergreen International Airlines, Inc. and Evergreen Air of Montana, Inc., for an exemption, waiver, and approval of transfer of assets and control relationships; Evergreen Helicopters, Inc. et al.; acquisition of Johnson Flying Service, Inc.

Mr. Delford Smith, Evergreen Helicopters, Inc. (Helicopters), Evergreen International Airlines, Inc. (Evergreen) and Evergreen of Montana, Inc. (Montana) have filed an application with the Board seeking approval under section 408 of the Act of (1) the transfer of Evergreen's small aircraft operations to Montana and (2) the control relationships, both direct and indirect, that would be created by such transfer. The applicants also seek an exemption from section 401 and a Waiver of Part 298 of the Board's Economic Regulations so that Montana may operate as an air taxi while its affiliate, Evergreen, simultaneously operates as a certificated supplemental air carrier.

The International Association of Machinists and Aerospace Workers has filed

an answer opposing the foregoing application, a motion to reopen the record in Docket 26471,[1] and a motion to consolidate the application and the IAM's requests for reopening for hearing. The applicants have filed a consolidated reply to the Union's pleadings. Finally, the Union has filed in response to the applicants' reply.

Upon consideration of the matters presented, the Board has decided to tentatively approve the proposed transfer of Evergreen's small aircraft operations to Montana subject to conditions. It is also our intention to authorize Montana to operate as an air taxi, subject to conditions, and to exempt the control relationship resulting from the subject transaction from the requirements of section 408 of the Act pursuant to section 408 (a)(5). Finally, the Board has determined to deny the IAM's motion to reopen the record in the acquisition proceeding.

We turn to a detailed discussion of our decision.

1. *Background.* By Orders 75–10–23 and 75–10–24, served October 7, 1975, the Board approved the acquisition of Johnson Flying Service, Inc. by Helicopters and the resulting common control relationships created by the acquisition. At the time of the acquisition Johnson offered passenger charters pursuant to certificates of public convenience and necessity issued by the Board. It also offered other air services, including certain fixed-base operations, air taxi charters, and specialized charters on behalf of government agencies and private industry.[2]

The acquisition was approved subject to a number of conditions, including, pursuant to the request of the IAM, imposition of the Board's standard labor protective provisions. The Board also carefully considered the Union's request that it condition its approval of the acquisition so as to require the postacquisition carrier to assume and honor the collective bargaining agreement previously in force between Johnson and its mechanical workers and to accept the IAM as the duly authorized bargaining representatives of the Mechanical Workers.[3] The Board denied the Union's request on two counts. First, it found that the course of action sought by the Union, i.e. Board intervention in representational disputes between employees and management, was outside the scope of the Board's air transportation responsibilities. Second, it found that such action was in any event unnecessary since Evergreen had pledged to consider in good faith the wishes of the employees for or against representation by the IAM.

Following the issuance of the Board's decision, the IAM, according to information submitted by the Union, requested Evergreen to voluntarily recognize the Union.[4] Evergreen declined, after, it asserted, considered in good faith the wishes of the affected employees. "Evergreen further informed the IAMAW that certain events had transpired which raised questions as to whether the employees involved desired IAMAW representation and expressed good faith doubt as to IAMAW's representative status of these employees."[5] On October 17, 1975, the IAM filed an application with the National Mediation Board requesting, in effect, that the NMB certify the IAM as the authorized representative of Evergreen's mechanical employees. That application is currently pending before the NMB.

By Order 75–11–115, dated November 28, 1975, the Board approved the transfer of Johnson's certificates to Evergreen, after Evergreen agreed to accept the Board's conditions for approval of the acquisition, and after the Board once more considered and rejected the IAM's request that it require Evergreen to assume Johnson's contractual obligations with the union.

2. *Reorganization of Evergreen International.* Under the proposed transaction Johnson's small aircraft operations, which had been acquired by Evergreen International, will be transferred to Evergreen of Montana, a recently created wholly owned subsidiary of Helicopters. That is, Montana will acquire most of Evergreen International's small aircraft, all ground property, office-related equipment, land owned at Missoula, Montana and McCall, Idaho, other assets and other liabilities relating to the transferred aircraft. Evergreen International will retain three Electra aircraft, two DC–3 aircraft and one C–46 aircraft, and other assets and liabilities relating to the retained aircraft. Evergreen International's supplemental operations will be based at the Evergreen Air Center at Marana, Arizona, while Montana's small aircraft operations will be based at Missoula and McCall, Montana. The applicants state that the transfer is oral in nature and subject to the authority requested herein.

Consummation of the transaction, which is in effect a corporate reorganization, will permit the applicants to separate the small and large aircraft operations acquired from Johnson into two separate corporations within the Helicopter system. Evergreen will engage in certificated charter operations, while Montana will continue the fixed base, small aircraft and specialized charter services historically operated by Johnson. It appears that the day-to-day operations of Evergreen will be directed by persons not involved in the operation of Montana, and vice versa, while certain administrative positions of both (i.e. Secretary and Treasurer) will be filled by the same persons.

Consummation of the proposed transaction will also result in the acquisition of control of Montana by Helicopters and common control relationships between Montana, on the one hand, and Evergreen and other aeronautically related subsidiaries of Helicopters, on the other. It will also result in the indirect control of Montana by Mr. Smith (through Helicopters) affecting additional common-control relationships involving other members of the Evergreen family of corporations,[6] and will give rise to certain interlocking relationships involving Mr. Smith and other corporate employees.

In support of the proposed transfer, the applicants state that the simultaneous operation of small and large aircraft services by Johnson created a number of problems for that carrier which continue at present, including difficulties in (1) designing tariff rates to cover its small aircraft operations, particularly with respect to some of the specialized flying operations in which such aircraft are used and (2) complying with the Board's reporting requirements with respect to the small aircraft operations, which resulted in an enforcement proceeding concerning Johnson's accounting delays and deficiencies. The applicants state that the proposed transaction is designed to obviate these difficulties.

The IAM advances three major arguments in opposition to approval of the proposed corporate reorganization. First, the IAM contends that the subject transaction has been consummated without prior Board approval, and, thus, the applicants are in violation of section 408 of the Act. Second, the IAM asserts that the transfer of Evergreen's small aircraft operations to Montana is inconsistent with the Board's approval of Evergreen's acquisition of Johnson. Third, the IAM argues that Evergreen has split Johnson's operations into two corporations in order to avoid the jurisdiction of the National Mediation Board, and, thereby, to defeat the rights of the employees represented by the Union under the Railway Labor Act. The Union seeks a hearing on the method and manner in which the small aircraft operations in question were transferred to Montana. It also requests that if the Board decides to approve the reorganization it should impose conditions on its approval that will protect the former employees of Johnson who may have been adversely affected by the transaction.

In our view the incorporation of Montana technically results in the direct acquisition and control of an air carrier by a person controlling an air carrier (Heli-

[1] We shall grant the Union's motion for leave to file this pleading as an otherwise unauthorized document. We shall also grant the Union's motion to file certain documents tendered in connection with the Union's response to the applicants' consolidated reply to the Union's various pleadings.

[2] See Orders 75–10–23/24 at 2.

[3] Id. at 14.

[4] In this connection, the IAM has requested the Board to take notice of, inter alia, certain representations made by Evergreen to the National Mediation Board relating to the status of Evergreen of Montana. We shall grant the Union's request.

[5] See Evesgreen's Response to the IAM's application to the National Mediation Board to "Interpret Certification," set forth in C.A.B. Docket 28670 as Exhibit B to the IAM's motion to the C.A.B. of January 14, 1976.

[6] See Orders 75–10–23/24 at 10.

copters) and indirectly in common control relationships between an air carrier, on the one hand, and another air carrier and various persons engaged in phases of aeronautics, on the other, all within the provisions of section 408(a)(5) of the Act. However, by Order 75-10-24, supra, the Board considered and approved control relationships basically similar to those involved herein.[7] In these circumstances, we conclude that it would be in the public interest to exempt the foregoing control relationships from the requirements of section 408 pursuant to the proviso of subsection (a)(5) thereof.[8]

In addition, although Evergreen and Montana are affiliates and each a wholly owned subsidiary of Helicopters, the proposed transfer of Evergreen's small aircraft to Montana falls technically within the ambit of section 408(a)(2) because it involves the purchase of a substantial part of the properties of one air carrier by another.[9] However, the Board tentatively concludes that it should approve the proposed transfer without hearing under the third proviso of section 408(b) of the Act.

As noted in Orders 75-10-23/24, Johnson's passenger charters and multifaceted small aircraft operations have long been provided under the umbrella of a single corporate entity. To be sure, the record in the acquisition proceeding demonstrated that both operations provided valuable public service. On the other hand, it also demonstrated that Johnson's amalgamated supplemental and small aircraft services created inhibiting operational and administrative problems for the carrier. For one thing, Johnson's corporate structure did not lend itself to the vigorous promotion of its supplemental operations, due, in part, to the inherent requirement that management's attention and resources be divided beween the operation of the carrier's passenger and specialized services. Indeed, at the time of the acquisition Johnson was not only the smallest supplemental, but also provided relatively limited passengers charters pursuant to its certificate authority. For another, since all of the Johnson's small aircraft operations were performed under the carrier's supplemental authority, they were subject to detailed reporting requirements imposed on all supplemental air carriers pursuant to part 241 of the Board's Economic Regulations. The history of Johnson's problems in complying with these requirements is documented in the acquisition proceeding and in the Johnson Flying Service, Inc. Enforcement Proceeding (Docket 26332). In the latter case, the Board determined, after hearing, that Johnson had violated the Act by failing to promptly file its reports with the Board. The evidence in that proceeding indicated that the carrier's problems stemmed in part from difficulties that it had experienced in keeping track of, and, thereafter, reporting, its complex and disparate aircraft activities. While the record supported the administrative law judge's conclusion that this consideration did not excuse Johnson's malfeasance, it nevertheless raised questions as to whether the public benefits obtained from application of the Board's reporting regulations to Johnson's small aircraft operations were commensurate with the burden and expense imposed upon the small supplemental, and, ultimately upon the traveling public.

In our view, reorganization of Evergreen along the lines set forth by the applicants represents a reasonable solution to the foregoing operational and administrative problems, and, equally significant, an encouraging indication that Evergreen will, as it represented to the Board in the acquisition proceeding, act to develop and improve Johnson's former supplemental operations. Thus, for example, segregation of the supplemental and specialized operations into different corporations, and the assignment of different personnel to supervise the operation of each, should enhance Evergreen's efforts at concentrating on the development of its supplemental services, and enable the carrier to operate in a manner similar to other certificated supplemental air carriers. Similarly, the transfer of small aircraft operations to Montana should significantly diminish the reporting requirements heretofore attendant to such operations. While it is true that public information concerning such operations will be reduced as a result of the corporate reorganization, we believe that, on balance, this consideration is substantially outweighed by the positive contribution that the reorganization should make to the overall efficiency of Evergreen's supplemental services and to the concomitant reduction in the costs of regulation. These are public benefits which are likely to be passed on to the traveling public in the form of improved public service, more attractive fares, or both.[10]

In considering the IAM's contentions that a hearing must be held for approval of the property transfer, it is important to emphasize that the Board has held that a hearing under section 408 of the Act is neither necessary nor warranted where the matters sought to be litigated are not material to the merits of the subject transaction or not sufficient by themselves to invoke the hearing process or block the transaction. See, e.g., Loftleidir-Seaboard Lease case, Order 70-5-111 (May 21, 1970), and Application of Aries Air Cargo International, Inc., Order 73-4-104 (April 25, 1973). This is the situation which we find present in the instant case.

To begin with, the primary purpose of section 408(a)(2) is to assure that an air carrier which disposes of a substantial part of its assets does not thereby impair its ability to perform its authorized services. There is no evidence, or indeed an allegation, that the aircraft or other properties to be transferred to Montana are needed in Evergreen's supplemental operations or that the terms of the transaction will in any way burden the supplemental carrier. On the contrary, what evidence exists establishes that consummation of the proposed transfer should have a positive impact on Evergreen's ability to discharge its certificate responsibilities.

We are also unable to find that evidentiary proceedings are warranted for the purpose of ruling upon the IAM's contention that the applicants have consummated the proposed reorganization without first obtaining the Board's approval. The Union is, in essence, requesting that hearings be held to determine whether the applicants have violated the Board's Sherman Doctrine. The Sherman Doctrine provides that the Board will not, in the absence of exceptional circumstances, process applications under section 408 of the Act where it appears that prohibited activity has been consummated without prior Board approval. Sherman, Control and Interlocking Relationships, 15 C.A.B. 876 (1952). The Doctrine was developed essentially as an administrative tool to deter willful circumvention of the Board's authority to decide 408 transactions prior to their consummation. In this connection, it is important to note that in approving

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[7] Our approval was made subject to conditions permitting the public monitoring of intercorporate business transactions between Evergreen, on the one hand, and other members of the Evergreen organization, on the other. See Orders 75-10-23/24, at 10-11. In these circumstances, pursuant to subsection (a)(5) thereof, future corporate transactions between Evergreen and Evergreen of Montana will be subject to the conditions imposed by ordering paragraphs 3(b)-3(e) of Order 75-10-24.

[8] To the extent that the interlocking relationships within the meaning of section 409 of the Act will exist as a result of the control relationships authorized herein, such relationships fall within the exemption from section 409 provided by Part 287 of the Board's Economic Regulations.

[9] Evergreen is a supplemental air carrier (see Order 75-11-115) and Montana will be an air carrier within the meaning of section 101 of the Act upon receipt of the air taxi authority issued to it herein. The property acquired by Montana represents a substantial part of the properties of Evergreen under the 10% test historically used by the Board. (See e.g. Order 73-4-109.)

[10] The applicants have submitted a balance sheet in connection with their application showing the financial effects of the proposed reorganization. The balance sheet indicates that Evergreen's financial position would be improved as a result of the reorganization. On the other hand, it also indicates that Montana may begin operations in an undercapitalized position. Based upon the record in the acquisition proceeding, it is reasonable to assume that Helicopters will provide Montana with financial assistance, if needed, during the air-taxi's startup period. Nevertheless, we recognize that the liabilities to be assumed by the air taxi were initially generated by certificated operations, and, in these circumstances, the possibility that Montana may not meet its obligations as they become due could adversely affect investor confidence in the supplemental industry. Consequently, we shall require as a condition to approval herein that the applicants submit a financial plan for enabling Montana to meet its current obligations until sufficient revenues can be generated by that carrier.

Evergreen's acquisition of Johnson, the Board also approved, and in fact encouraged, continuation of Johnson's fixed-base and small aircraft activities. Significantly, the applicants do not seek new operating authority; nor do they seek to provide any service which Evergreen cannot now provide under its existing authorization from the Board. They have merely applied for permission to restructure their supplemental and specialized small aircraft operations by the type of services to be performed. In these circumstances, it is apparent that the IAM's allegation that the applicants have effected the subject corporate reorganization without Board approval, even if established, would not cause us to interfere with the proposed transaction because to the extent that there may have been a violation of the Doctrine, we find that the unique factors just discussed constitute exceptional circumstances warranting a waiver of our policies in this area.[11]

In summary, we must conclude that the IAM has not raised any issue which would be appropriate for a hearing, and, therefore, that a hearing would serve no purpose other than delay.

We also disagree with the IAM's assertion that the operation of Johnson's former certificated and specialized services by two corporations, rather than by one as the applicants had proposed in the acquisition proceeding, is materially inconsistent with the Board's decision therein. As Orders 75-10-23/24 make clear, the Board approved the acquisition primarily for the purpose of providing the traveling public with continued and improved supplemental air transportation, under circumstances that would not radically transform the nature of the certificated carrier's operations. The Board found that integration of the post-acquisition carrier into the Evergreen organization would accomplish this goal:

> * * * Evergreen offers JFS badly needed working capital, new credit opportunities, and a chance to become part of a well-managed and successful business enterprise. These benefits will rescue the carrier from its immediate financial situation. More importantly, they should provide a sound basis for JFS's future growth and development. * * *[12]

Approval of the proposed corporate reorganization should advance Evergreen's public service potential as we have already discussed in detail. Further, there is nothing in the subject application which indicates that the applicants plan to disgorge themselves of Johnson's former specialized or supplemental operations, or that the reorganized supplemental and new air taxi affiliate will not receive the benefits resulting from integration into the Evergreen organization, or that the applicants otherwise contemplate a radical transformation of the operations they proposed to provide during the acquisition proceeding. In these circumstances the splitting of Evergreen's operations into two separate corporation is fundamentally consistent with the Board's decision in the acquisition proceeding, and, in our judgment, this consideration provides an additional reason for approving, rather than disapproving, the subject application.

Finally, the Board has carefully considered the IAM's contention that the proposed transaction should be disapproved because the applicants have established a small aircraft subsidiary for the purpose of depriving mechanical employees of their right to be represented by the IAM. It appears that the Union's contention is based upon Evergreen's decision to transfer Johnson's former mechanical employees to Montana, and its position before the NMB that Montana is not a common carrier and thus outside the NMB's jurisdiction.

We do not share the IAM's conclusion that the proposed reorganization of Evergreen is nothing more than a subterfuge for depriving Evergreen's mechanics of their right to decide whether or not they wish to be represented by the IAM, since, as previously detailed, it is apparent that the reorganization is designed to achieve benefits wholly unrelated to the on-going IAM-Evergreen labor dispute. Conversely, disapproval of the proposed transaction as requested by the union would serve to penalize the traveling public by denying them these benefits for reasons relating solely to the dispute. In our judgment this result cannot be reconciled with the public interest, particularly since the IAM is collaterally seeking more appropriate relief from a tribunal charged under Federal law with the primary responsibility for dealing with labor conflicts such as the one at hand.

On the other hand, we agree with the IAM that our air transportation responsibilities do require that we take steps to insure that the transaction we are approving does not deprive Evergreen's employees of rights they would otherwise enjoy pursuant to the Board's approval of Evergreen's acquisition of Johnson. Accordingly, the Board shall, as a condition to its approval of this transaction, make its labor protective provisions expressly applicable to former employees of Johnson who are now employees of Evergreen of Montana. Further, without intending to intervene in the subject representational dispute, we believe that our responsibilities also require that we take other steps to prevent the Federal Aviation Act from being used as a vehicle for circumventing jurisdiction otherwise vested in the NMB. Thus, while it is of course for the NMB to rule upon its own jurisdiction, we point out that the conduct of operations by Montana under its Part 298 authority unquestionably establishes it as an air carrier within the meaning of section 101 of the Federal Aviation Act.

In all these circumstances, the Board tentatively concludes that it should approve the proposed transfer of Evergreen's small aircraft operations to Montana. In our judgment, such transfer does not in and of itself affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, and does not result in the creation of a monopoly or tend to restrain competition. Further, for reasons that have been explained, no substantial cause for hearing has been demonstrated, and it is tentatively concluded that the public interest does not require a hearing. In all these circumstances, it is the Board's tentative view that, subject to the conditions set forth herein, the proposed transfer of Evergreen's small aircraft operations to Montana will not be inconsistent with the public interest and the conditions of section 408 of the Act will be fulfilled.[13]

3. *Air Taxi Authorization.* In approving Evergreen's acquisition of Johnson, the Board also authorized Evergreen Helicopters and Evergreen Helicopters of Alaska to continue their respective air taxi operations subject to a condition limiting such operations to charter trips.[14] Subsequently, in transferring Johnson's certificates to Evergreen, the Board imposed further conditions designed to protect the traveling public against any confusion which might exist as a result of the operations of certificated and noncertificated services by members of the Evergreen family of corporations.[15]

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[11] In these circumstances, we need not reach the merits of the union's allegations. However, we note that the applicants deny the union's allegation that the small aircraft in question have in fact been transferred to Montana and that Montana is operating these properties. Their denial is supported by information provided the Board by the Federal Aviation Administration establishing that Montana has only recently received an FAA operating authorization, and, significantly, that such authorization was issued long after the IAM filed its opposition to approval of the proposed transfer. The IAM also alleges that Montana is conducting fixed-base operations for Evergreen and customers unrelated to Evergreen. Assuming for present purposes that the Union is correct, it is apparent for reasons stated in the text that any violation of the Board's Sherman Doctrine resulting from the continuation of Evergreen's fixed-base operations by Montana is negated by the exceptional circumstances we find herein.

[12] Orders 75-10-23/24 at p. 4.

[13] In accordance with section 408(b) of the Act, this order constituting notice of the Board's tentative findings, will be published in the FEDERAL REGISTER and interested persons will be afforded an opportunity to comment on the Board's tentative decision. In its final order, the Board will reserve jurisdiction over the transaction to take whatever action may be required in the public interest.

[14] Part 298 of the Board's Economic Regulations establishes a class of air carrier known as "air taxi operators," and, inter alia, permits members of this class to engage in air transportation free from the certificate requirements of section 401 of the Act. However, an airline which either holds, or is affiliated with a carrier that holds, a certificate issued by the Board is not included in that class, and, therefore, must obtain specific authority from the Board in order to operate as an "air taxi."

[15] Order 75-11-115, supra, at 3 and ordering paragraph 6.

We believe that Montana should be authorized to operate as an air taxi subject to the same conditions imposed on the continued operations of Evergreen Helicopters and Evergreen Helicopters of Alaska, and contingent upon our ultimate disposition of the applicants' request to transfer Evergreen's small aircraft operations to Montana. In our judgment, those considerations which led us to authorize those carriers to operate as air taxis are presently in force with respect to Montana's request. Significantly, Montana seeks authority that would permit it to continue Evergreen's small air carrier charter operations, or, in other words, to do no more than to provide services which Evergreen is presently authorized to provide. In all these circumstances, we find that enforcement of section 401 of the Act and section 298.3 of the Board's Economic Regulations, insofar as such sections would otherwise prevent Montana from conducting charter air taxi operations, would be an undue burden upon Montana by reason of the limited extent of, and unusual circumstances affecting, its operations, and is not in the public interest.

4. *Motion to Reopen the Record.* The major thrust of the IAM's petition is that events occurring subsequent to the Board's decision in the acquisition proceeding demonstrate that the labor protective provisions imposed by the Board therein are inadequate to protect the rights of affected employees. The Union alleges that Evergreen has refused to employ Johnson's former mechanics in its supplemental operations, and has otherwise acted in a manner to limit or eliminate their work opportunities. In this regard it maintains that when Johnson and Evergreen filed their application for approval of the acquisition, Johnson employed 34 mechanical employees represented by the IAM; that Johnson thereafter reduced its forces so that by the time the Board transferred Johnson's certificates to Evergreen only 6 mechanics were still actively employed by the supplemental air carrier; and that Evergreen subsequently transferred these mechanics to Montana and continued the others in a furloughed status while Evergreen and Montana employed non-Johnson mechanical workers to perform their mechanical work. The Union also alleges that Evergreen has reneged on its representations to the Board that it would respect the rights of its employees to choose whether or not they desire Union representation. It has done so, the Union alleges, by refusing to recognize the Union, or the collective bargaining agreement previously in force between Johnson and the mechanical workers represented by the Union, and by adopting a course of conduct designed to discourage Union membership. As a result of the foregoing, the Union argues that the labor protective provisions as they are presently constituted do not adequately protect the recall rights of furloughed mechanical employees, or their "contractual right to perform mechanical work on Johnson's aircraft used in its supplemental activity." Accordingly, the IAM requests that the record be reopened in the acquisition proceeding so that it may demonstrate that Evergreen has improperly acted to discourage Union membership, and for the purpose of imposing "such additional protective provisions as this Board deems just and reasonable. * * *"

In its reply, Evergreen asserts that there is no merit to the Union's allegations, and that the Union has provided no basis for additional labor protective provisions. It asserts that to the extent that any Johnson employees may be affected by the acquisition, they are fully covered by the existing labor protective provisions. "In actual fact," Evergreen maintains, "none of the former employees have been injured by such acquisition. Instead they are now receiving considerably better compensation and fringe benefits than they did before." Evergreen also avers that the transfer of employees referred to by the IAM is merely technical in nature, involves all the ground personnel concerned with Montana's prospective operations (and not merely the mechanical workers in question), and that "from an operational standpoint, such employees are regarded as being loaned to and part of the small aircraft division of Evergreen International." Finally, as discussed, Evergreen has taken the position that it has respected the wishes of its employees regarding Union representation, and that its decision not to recognize the Union was based upon its "good faith doubt" as to the Union's representative status.

As indicated, the Board has decided to deny the IAM's motion to reopen the record. In our judgment, no compelling reason has been advanced for amending the labor protective provisions as requested by the Union. Fundamental to our conclusion is our determination that the right to recall, to the extent that it may exist, is already preserved by the existing protective provisions, and our further determination that use of the provisions as a vehicle for providing the Union with the other relief that it seeks would not be consistent with the public interest. In these circumstances, it is unnecessary to resolve the conflicting presentations of the parties, or to otherwise hold further evidentiary proceedings as sought by the IAM.

On numerous prior occasions, the Board has ruled on the applicability of its labor protective provisions to employees in a furloughed status. The Board has held that its labor protective provisions cover furloughed employees "having employment rights" at the time the transaction in question is consummated, and, equally, significant for present purposes, that such rights include the right to be recalled to active employment. In a leading case the Board explained:

> * * * As the examiner correctly pointed out, we do not interpret the term 'employee,' as used in the United-Capital provisions, as limited to those persons on active service at the time of the merger. Rather, the term includes all individuals having employment rights at the time of [the] merger. The right to recall, to the extent that it may exist, is a valuable employee right. As the examiner pointed out, whether an employee not in active service has employment rights depends on the provisions of his contract or, in the case of an unorganized employee, on company practice or policy. For the purposes of the protective provisions, such rights exist whether or not the contract survives the merger. * * * American-Trans Caribbean Merger Case, Order 70-12-161 at 15, served December 31, 1970.

In our judgment, the principle discussed in American-Trans Caribbean, and more recently affirmed in the Delta-Northeast Merger Case, Order 72-5-73/74, served May 19, 1972, is applicable to the instant situation. In this connection the IAM states that at the time the acquisition was consummated Johnson's mechanical employees enjoyed the right to be recalled to positions for which they were qualified in order of seniority. Evergreen does not dispute the Union's assertion nor otherwise challenge the Union's characterization of the rights held by Johnson's mechanical workers. In these circumstances, and assuming the Union's representations to be correct, it follows from precedent that this "employment right" exists and has been preserved by the protective provisions irrespective of whether or not the Johnson-IAM collective bargaining agreement itself survived the acquisition. Accordingly, no specific amendments are necessary to cover such rights, as they are already protected by the existing protective provisions. We shall leave implementation of the right to recall to negotiations between the parties, noting that section 13 of the provisions provides a mechanism for the resolution of disputes that may arise in connection therewith.

On the other hand, the Board's protective provisions do not guarantee Johnson's former mechanical workers the right to work on Evergreen's supplemental aircraft, or, for that matter, the right to be represented by the IAM. However, we cannot find that in the circumstances presented it would be either appropriate or consistent with the Board's air transportation responsibilities to amend the provisions to create such rights. Although the IAM has couched its petition in terms of requesting additional protective provisions, it is clear that the Union ultimately seeks to have the Board intervene either directly or indirectly, in its on-going labor dispute with Evergreen, and require Evergreen to recognize the Union, or the Johnson-IAM collective bargaining agreement, or both. However, as the Board has repeatedly stated (including in its order approving Evergreen's acquisition of Johnson), the relief that the Union seeks is outside the scope of its labor related policies. Moreover, even if this were not the case, it would be imprudent for the Board to inject itself into the instant controversy since the question of the IAM's right to represent

Evergreen's mechanical employees is now before the NMB, an expert tribunal which Congress has entrusted with the primary responsibility for resolving such disputes.

Accordingly, it is ordered, That: 1. Interested persons are hereby afforded a period of 21 days from service in which to file comments with respect to the Board's proposed action; [18]

2. The Attorney General of the United States shall be furnished a copy of this order within one day of publication; and

3. The motion of the International Association of Machinists and Aerospace Workers to reopen the record in Docket 26471 be and it hereby is denied.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
*Acting Secretary.*

APPENDIX

LABOR PROTECTIVE PROVISIONS

Section 1. The fundamental scope and purpose of the conditions hereinafter specified are to provide for compensatory allowances to employees who may be affected by the proposed acquisition of Johnson Flying Service, Inc., by Evergreen Helicopters, Inc., through Evergreen Air, Inc. (now Evergreen International Airlines, Inc.) approved by Orders 75-10-23/24, and it is the intent that such conditions are to be restricted to those changes in employment due to and resulting from such acquisition. Fluctuations, rises and falls, and changes in volume or character of employment brought about by other causes are not covered by or intended to be covered by these provisions.

Section 2(a). The term "effective date of acquisition" as used herein shall mean the effective date of the amended authority transferred to Evergreen International Airlines, Inc., pursuant to the approval granted in Orders 75-10-23/24.

(b) The term "employee" as used herein shall mean an employee of Evergreen International Airlines, an affiliate or subsidiary thereof, or Evergreen Helicopters, Inc. (hereinafter referred to collectively as Evergreen) who, immediately prior to the acquisition, was employed by Johnson Flying Service, Inc., in other than a temporary or part-time position.

Section 3. Insofar as the acquisition affects the seniority rights of Johnson Flying Service, Inc., employees, provisions shall be made for the integration of senority lists in a fair and equitable manner, including, where applicable, agreement through collective bargaining between Evergreen and the representatives of the employees affected. In the event of failure to agree, the dispute may be submitted by either party for adjustment in accordance with section 13.

Section 4(a). Subject to the applicable conditions set forth herein, no employee of Johnson Flying Service, Inc., who is continued in service by Evergreen shall as a result of the acquisition be placed in a worse position with respect to compensation than he occupied immediately prior to his displacement so long as he is unable in the normal exercise of his seniority rights under existing agreements, rules, and practices to obtain a position producing compensation equal to or exceeding the compensation of the position held by him immediately prior to such date, except, however, that if he fails to exercise his seniority rights to secure another available position, which does not require a change in residence, to which he is entitled under the working agreement and which carries a rate of pay and compensation exceeding those of the position which he elects to retain, he shall thereafter be treated for the purposes of this section as occupying the position which he elects to decline.

(b) The protection afforded by the foregoing paragraph is hereby designated as a "displacement allowance" which shall be determined in each instance in the manner hereinafter described. Any employee entitled to such an allowance is hereinafter referred to as a "displaced" employee.

(c) Each displacement allowance shall be a monthly allowance determined by computing the total compensation received by the employee and his total time paid for during the last 12 months in which he performed service immediately preceding the date of his displacement (such 12 months being hereinafter referred to as the "test period") and by dividing separately the total compensation and the total time paid for by 12, thereby producing the average monthly compensation and average monthly time paid for, which shall be the minimum amounts used to guarantee the displaced employee; and if his compensation in his current position is less in any month in which he performs work than the aforesaid average compensation, he shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that he is not available for service equivalent to his average monthly time during the test period, but he shall be compensated in addition thereto at the rate of the position filled for any time worked in excess of the average monthly time paid for during the test period.

(d) The protection afforded herein shall only apply to displacements occurring within a period of 3 years from the effective date of the acquisition (referred to herein as the claim period); and the period during which this protection is to be given (referred to herein as the protective period) shall extend for a period of 4 years from the date on which the employee is displaced.

Section 5(a). Any employee of Johnson Flying Service, Inc., who is deprived of employment as a result of said acquisition shall be accorded an allowance (hereinafter termed a "dismissal allowance"), based on length of service, which (except in the case of an employee with less than 1 year of service) shall be a monthly allowance equivalent in each instance to 60 percent of the average monthly compensation of the employee in question during the last 12 months of his employment in which he earned compensation prior to the date he is first deprived of employment as a result of the acquisition. This dismissal allowance will be made to each eligible employee, while unemployed, by Evergreen during a period beginning at the date he is first deprived of employment as a result of the acquisition and extending in each instance for a length of time determined and limited by the following schedule:

| Length of service in years: | *Period of payment (months)* |
|---|---|
| 1 and less than 2 | 6 |
| 2 and less than 3 | 12 |
| 3 and less than 5 | 18 |
| 5 and less than 10 | 36 |
| 10 and less than 15 | 48 |
| 15 and over | 60 |

In the case of an employee with less than 1 year of service such employee shall not be covered by the benefits provided in this section, but shall receive such benefits, and only such benefits, as are provided by section 7.

(b) For the purpose of these provisions, the length of service of the employee shall be determined from the date he last acquired an employment status with Johnson Flying Service, Inc., and he shall be given credit for 1 month's service for each month in which he performed any service (in any capacity whatsoever) and 12 such months shall be credited as 1 year's service. The employment status of an employee shall not be interrupted by furlough in instances where the employee has a right to and does return to service when called. In determining length of service of an employee acting as an officer or other official representative of an employee organization he will be given credit for performing service while so engaged on leave of absence from the service of Johnson Flying Service, Inc.: *Provided*, That in calculating the dismissal allowance for such an employee, such allowance shall be based upon the compensation paid such employee by the carrier during his last 12 months of service on the company payroll and not on the compensation he may have been paid by the employee representative organization.

(c) An employee shall not be regarded as deprived of employment in case of his resignation, death, or retirement on account of age or disability in accordance with the current rules and practices applicable to employees generally, dismissal for justifiable cause in accordance with the rules, or furlough because of reduction in forces due to seasonal requirements of the service; nor shall any employee be regarded as deprived of employment as the result of the acquisition who is not deprived of his employment within 3 years from the effective date of said acquisition.

(d) Each employee receiving a dismissal allowance shall keep Evergreen informed of his address and the name and address of any other person by whom he may be regularly employed.

(e) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished while he is absent from service, he will be entitled to the dismissal allowance when he is available for service. The employee temporarily filling said position at the time it was abolished will be given a dismissal allowance on the basis of said position until the regular employee is available for service and thereafter shall revert to his previous status and will be given a dismissal allowance accordingly if any is due.

(f) An employee receiving a dismissal allowance shall be subject to call to return to service after being notified in accordance with the working agreement, and such employee may be required to return to the service of Evergreen for other reasonably comparable employment for which his is physically and mentally qualified and which does not require a change in his place of residence, if his return does not infringe upon the employment rights of other employees under the working agreement.

(g) If any employee who is receiving a dismissal allowance returns to service the dismissal allowance shall cease while he is so reemployed and the period of time during which he is so reemployed shall be deducted from the total period for which he is entitled to receive a dismissal allowance. During the time of such reemployment, however, he shall be entitled to protection in accordance with the provisions of section 4.

[18] Comments so filed shall conform to the requirements of the Board's Rules of Practice (14 CFR 302) for the filing of documents. Further, since an opportunity to file comments is provided for, petitions for reconsideration of this order will not be entertained.

(h) If an employee who is receiving a dismissal allowance obtains other employment, his dismissal allowance shall be reduced to the extent that the sum total of his earnings in such employment plus his allowance and any unemployment insurance benefit (or similar benefit) exceed the amount upon which his dismissal allowance is based: *Provided*, That this shall not apply to employees with less than 1 year's service.

(i) A dismissal allowance shall cease prior to the expiration of its prescribed period in the event of—

1. Failure without good cause to return to service after being notified of a position for which he is eligible and as provided in paragraphs (f) and (g).
2. Resignation.
3. Death.
4. Retirement on account of age or disability in accordance with the current rules and practices applicable to employees generally.
5. Dismissal for justifiable cause.

Section 6. An employee affected by the acquisition shall not during the applicable protective period be deprived of benefits attaching to his previous employment, such as hospitalization, relief, and the like.

Section 7. Any employee eligible to receive a dismissal allowance under section 5 hereof may, at his option at the time of acquisition, resign and (in lieu of all other benefits and protections provided in these provisions) accept in a lump sum a separation allowance determined in accordance with the following schedule:

| Length of service in years: | *Separation allowance (months' pay)* |
|---|---|
| 1 and less than 2 | 3 |
| 2 and less than 3 | 6 |
| 3 and less than 5 | 9 |
| 5 and over | 12 |

In the case of employees with less than 1 year's service, 5 days' pay, at the straight-time rate per working day of the position last occupied, for each full month in which they performed service will be paid as the lump sum.

(a) Length of service shall be computed as provided in section 5.

(b) One month's pay shall be computed by multiplying by 30 the calendar daily rate of pay received by the employee in the position last occupied prior to the time of the acquisition.

Section 8(a). Any employee of Johnson Flying Service, Inc., who is retained in the service of Evergreen (or who is later restored to service from the group of employees entitled to receive a dismissal allowance) who is required to change the point of his employment as a result of such acquisition, and is therefore required to move his place of residence, shall be reimbursed for all expenses of moving his household and other personal effects and for the traveling expenses of himself and members of his family including living expenses for himself and his family and his own actual wage loss during the time necessary for such transfer, and for a reasonable time thereafter (not to exceed 2 working days), used in securing a place of residence in his new location. The exact extent of the responsibility of Evergreen under this provision and the ways an means of transportation shall be agreed upon in advance between Evergreen and the affected employee or his representative. No claims for expenses under this section shall be allowed unless they are incurred within 3 years from the effective date of the acquisition, and the claim must be submitted within 90 days after the expenses are incurred.

(b) Changes in place of residence subsequent to the initial change caused by the acquisition which grow out of the normal exercise of seniority in accordance with working agreements are not comprehended within the provisions of this section.

Section 9(a). The following provisions shall apply, to the extent they are applicable in each instance, to any employee who is retained in the service of Evergreen (or who is later restored to such service from the group of employees entitled to receive a dismissal allowance) who is required to change the point of his employment as a result of such acquisition and is therefore required to move his place of residence.

1. If the employee owns his own home in the locality from which he is required to move, he shall at his option be reimbursed by Evergreen for any loss suffered in the sale of his home for less than its fair value. In each case the fair value of the home in question shall be determined as of a date sufficiently prior to the acquisition to be unaffected thereby; *Provided, however*, That if the home is not sold within a substantial period of time after the acquisition, then the fair value of the home shall be determined as of a date as closely related to the date of sale as possible, with an agreed upon adjustment being made to exclude any effect of the acquisition on such fair value. Evergreen shall in each instance be afforded an opportunity to purchase the home at such fair value before it is sold by the employee to any other party.

2. If the employee is under a contract to purchase his home Evergreen shall protect him against loss to the extent of the fair value of any equity he may have in the home and in addition shall relieve him from any further obligations under his contract.

3. If the employee holds an unexpired lease of a dwelling occupied by him as his home, Evergreen shall protect him from all loss and cost in securing the cancellation of his said lease.

(b) Changes in place of residence subsequent to the initial change caused by the acquisition which grow out of the normal exercise of seniority in accordance with working agreements are not comprehended within the provisions of this section.

(c) No claim for loss shall be paid under the provisions of this section which is not presented within 3 years after the effective date of the acquisition.

(d) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under contract for purchase, loss and cost in securing termination of lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee or his representative and Evergreen and, in the event they are unable to agree, the dispute may be referred by either party to a board of three competent real estate appraisers, selected in the following manner: One to be selected by the employee or his representative and one by Evergreen, respectively; these two shall endeavor by agreement within 10 days after their appointment to select the third appraiser, or to select some person authorized to name the third appraiser; and in the event of failure to agree, then the Chairman of the National Mediation Board shall be requested to appoint the third appraiser. A decision of a majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the salary of the appraiser selected by such party.

Section 10. If Johnson Flying Service, Inc., on or after February 21, 1974 rearranges or adjusts its forces in anticipation of the acquisition, with the purpose or effect of depriving an employee of benefits to which he should be entitled under these provisions as an employee immediately affected by the acquisition, these provisions shall apply to such an employee as of the date when he is so affected.

Section 11. Evergreen shall give at least 45 days' written notice containing a full and adequate statement of the proposed changes to be effected by the acquisition, including an estimate of the number of employees of each class, craft, or field of endeavor affected by the intended changes. Such notice shall be posted on bulletin boards or other conspicuous places convenient to the employees of Johnson Flying Service, Inc., and a copy of the notice shall be sent by registered mail to all authorized representatives of any of the employees of Johnson Flying Service, Inc.

If requested in writing by any employee or employees Johnson Flying Service, Inc., or the authorized representative of such employee or employees, the date and place of a meeting between said employees or their representatives and the representatives of Evergreen to settle problems of the rearrangement of such employees arising out of and because of the acquisition shall be agreed upon within 10 days after such request is received by Evergreen. The meeting shall commence within 30 days from the date the request is received.

In the event of a falure to agree upon a settlement of a problem or of problems presented at the meeting, the unsettled problems may be submitted by either party for adjustment in accordance with section 13.

Section 12. No employee of Johnson Flying Service, Inc., shall, as a condition of eligibility for the protection afforded by the terms of this order be required to accept employment with Evergreen, that is not within the class, craft, or field of endeavor in which he was employed by Johnson Flying Service, Inc., on the date of the attached order.

Section 13(a). In the event that any dispute or controversy (except as to matters arising under section 9) arises with respect to the protection provided herein, which cannot be settled by the parties within 20 days after the controversy arises, it may be referred by any party to an arbitrator selected from a panel of seven names furnished by the National Mediation Board for consideration and determination. The parties shall select the arbitrator from such panel by alternatively striking names until only one remains, and he shall serve as arbitrator. Expedited hearings and decisions will be expected, and a decision shall be rendered within 90 days after the controversy arises, unless an extension of time is mutually agreeable to all parties. The salary and expenses of the arbitrator shall be borne equally by Evergreen and (i) the organization or organizations representing the employee or employees, or (ii) if unrepresented, the employee or employees or group or groups of employees. The decision of the arbitrator shall be final and binding on the parties.

(b) The above condition shall not apply if the parties by mutual agreement determine that an alternative method for dispute settlement or an alternative procedure for selection of an arbitrator is appropriate in their particular dispute. No party shall be excused from complying with the above condition by reason of having suggested an alternative method or procedure, unless and

until that alternative method or procedure shall have been agreed to by all the parties.

[FR Doc.76-16863 Filed 6-9-76;8:45 am]

[Order 76-6-41; Docket 26856]

## UNITED AIR LINES, INC.

### Application for Amendment of Carriers' Discount Fare Tariffs

Application of United Air Lines, Inc. for amendment of carriers' discount-fare tariffs.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of June, 1976.

By Order 76-4-88, the Board directed the carriers to place expiration dates on all discount fares not now bearing expiry dates. The dates designated were: September 30, 1976 for group fares; October 31, 1976 for individual tour-basing fares; and November 30, 1976 for all other types of discount fares. The order provided for the filing of exceptions to the dates specified.

Allegheny Airlines, Inc. (Allegheny) has filed a request that the Board extend the expiration dates by 90 days so that the group fares would be marked to expire December 31; individual tour-basing fares January 31; and all other discount fares February 28. The carrier states that two of its discount fares are affected by the Board's order (the group-10 and weekend excursion fares), and that the presently prescribed dates provide insufficient time to develop and implement the necessary data-collection procedures on these fares, analyze the results, and prepare the necessary economic justification to accompany the tariff filings Allegheny must make to extend the fares.

Southern Airways, Inc. (Southern) has filed an answer in support of Allegheny's exception, and United Air Lines, Inc. (United) has filed in opposition.[1] The thrust of United's objection is that further delay in implementation of the Board's Phase 5 policy is undesirable and totally unjustified by the allegations of Allegheny and Southern.

In view of the alleged difficulties in data collection and preparation of justifications within the time frames entailed by the presently specified expiration dates, a three-month extension does not appear unreasonable, and we will therefore revise our earlier order as requested by Allegheny.

United raises another issue which is related to the question of the expiry dates. It requests that the Board require their publication not later than 30 days following service of its final order in this proceeding, since such action wouldl preclude a carrier now offering a discount fare with no expiry date from promoting and selling that fare for travel at any future time up to 30 days prior to the expiration date directed by the Board. In the absence of such a provision, United contends that carriers, such as itself, whose fares already bear an earlier expiration date could be forced to remove that date for the interim period or face substantial traffic loss to other carriers.

We believe United's request has merit and the order will be so amended. Among other things, it will put all carriers on the same footing, and preclude carriers from placing later expiration dates than those intended by the Board and then amending their tariffs to conform to the Board's order only 30 days prior to the prescribed dates. This should also deter a carrier from selling a discount fare in the interim (which presently does not bear an expiry date) for travel subsequent to the expiration date set by the Board, only later notifying the passenger that the fare the passenger intended to use is marked to expire before travel is to begin.

Accordingly, upon consideration of the foregoing matters,

*It is ordered*, That:

1. Ordering paragraph 1 of Order 76-4-88 is amended to read as follows:

"All scheduled certificated air carriers shall file tariff revisions no later than 30 days after service of this order, on at least 30 days' notice, placing the following expiration dates on discount fares applicable to air transportation of persons within 48 contiguous states and the District of Columbia not now bearing an expiration date:

| *Type of discount fare* | Expiration date [2] |
|---|---|
| (a) Group (tour-basing & non-tour-basing) | Dec. 31, 1976. |
| (b) Individual tour-basing | Jan. 31, 1977. |
| (c) All other types of discount fares not included in (a) and (b) above | Feb. 28, 1977. |

[2] Carriers are, of course, free to fix earlier expiration dates than those indicated.

2. Copies of this order be served upon all scheduled certificated air carriers providing air transportation within the 48 contiguous states and the District of Columbia.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
*Acting Secretary.*

[FR Doc.76-16865 Filed 6-9-76;8:45 am]

[Order 76-6-30; Docket 28848]

## WICHITA

### Improved Authority

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of June, 1976.

The *Improved Authority to Wichita Case* was an outgrowth of a petition by the Kansas Parties (the State of Kansas, from Kansas and northern Oklahoma) for an investigation of the need for new and improved air service in selected Wichita markets.[1]

In its order instituting the proceeding, Order 76-2-27, the Board concluded that the Wichita-Denver market is sufficiently large to warrant consideration of the need for competitive nonstop service. The Board also noted that several pending certificate amendment applications filed in response to the petition of the Kansas Parties proposed service between Wichita and other points in connection with Wichita-Denver service, and that it would be an efficient use of the Board's resources to consider service in these other markets at the same time the Wichita-Denver market was considered. Specifically, the Board found that it should consider the removal or modification of the following restrictions on the authority of incumbent carriers which would permit the operation of improved service on a permissive basis: Frontier Airlines' one-stop restriction in the Wichita-Denver/Little Rock/Memphis markets; Continental Air Lines' restriction against single-plane service between Wichita and Los Angeles, via Denver; and Trans-World Airlines' one-stop restriction in the Wichita-Atlanta market.

The Board consolidated applications of Delta Air Lines for Memphis-Wichita-Denver authority, and of Eastern Air Lines for Atlanta-Wichita-Denver authority to afford them an opportunity to demonstrate that their applications should be granted in lieu of, or in addition to, the removal of restrictions from the certificates of the incumbent carriers. The Board, however, declined to expand the proceeding beyond the scope outlined above and denied Eastern's request to consolidate its application for an Atlanta-Wichita-San Francisco route.

The end product of the Board's findings was a proceeding directed to the consideration of improved service in several specified Wichita markets. The markets included all of those the Kansas Parties sought to have considered except Wichita-San Francisco.

As provided for by the Board's order, a number of air carriers and civic parties filed petitions for reconsideration and clarification of the order, motions to consolidate applications, and answers in support of, or in opposition to, the petitions and motions.[2] The petitions and

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[1] We will grant the motions of Southern and United for leave to file an otherwise unauthorized document, *i.e.*, answers to Allegheny's exception.

[1] The petition sought consideration of (1) first unrestricted service between Wichita, on the one hand, and Atlanta, Little Rock, and Memphis, on the other hand; (2) first competitive unrestricted service between Wichita and Denver; (3) competitive single-plane service between Wichita and Los Angeles, via Denver; and (4) additional unrestricted service between Wichita and San Francisco.

[2] Petitions for reconsideration were filed by Continental, Delta, Frontier, the Kansas Parties, National Airlines, the San Francisco Parties (the City, Chamber of Commerce, and County of San Francisco), and Southern Airways. Motions to consolidate were filed by Braniff Airways, Continental, Frontier, Piedmont Aviation, Southern, and TWA. Answers were filed by Delta, the Denver Parties (the City, Chamber of Commerce, and County of Denver, and the Colorado Public Utilities Commission), Eastern, Frontier, the Kansas Parties, the Memphis Parties (the City and Chamber of Commerce of Memphis), TWA and the Bureau of Operating Rights. After the time prescribed by the Board's order for motions to consolidate, Frontier filed an amended certificate application and an amended motion to consolidate, and Texas International Airlines filed an answer to the amended motion.

motions seek a broadening of the proceeding to include the following issues: Memphis-Denver nonstop service; competitive Wichita-San Francisco service; modification of Continental's Pacific Northwest long-haul restriction so as to make possible Wichita-Houston, Wichita-New Orleans, and Wichita-Oklahoma City turnaround service; modification of the "stop" restrictions of Frontier's certificate relating to Las Vegas-Little Rock/Memphis flights, Las Vegas-Wichita flights, and Denver-Little Rock/Memphis flights; and termination or restriction of TWA's authority to provide Wichita-Las Vegas single-plane service.

Additionally, the filings request imposition of a pretrial restriction prohibiting TWA under any authority that may be awarded it from providing one-stop single-plane service between Atlanta and Florida points, on the one hand, and San Francisco, on the other hand; clarification of the order on the question of whether the case, as constituted, includes the issues of Atlanta-Denver and Wichita-Los Angeles nonstop service; and elimination of the requirement that the parties file environmental information pursuant to Part 312 of the Board's Economic Regulations.

Upon consideration of the matters presented, the Board finds, for the reasons hereinafter set forth, that the requested modifications of the issues should be denied, except to the limited extent of adding the possible modification of certain stop restrictions of Frontier's certificate.[5]

Delta, Piedmont, and Southern seek the inclusion of Memphis-Denver nonstop service.[6] At the outset, we reject the arguments of Piedmont and Southern that an award of Memphis-Denver one-stop authority to some other carrier (particularly should the recipient be Frontier, a subsidized local service carrier) on top of the Memphis-Denver nonstop authority of Braniff would preclude a subsequent grant of their applications for Memphis-Denver nonstop authority and that consolidation of their nonstop requests is therefore required under the so-called *Ashbacker* doctrine.[7]

Although mutual exclusivity depends peculiarly upon the specific facts of each individual case, the Board has observed that a one-stop operation in a market is not sufficiently competitive with nonstop service to preclude, on that basis, a subsequent award of nonstop authority. See: *Piedmont Aviation, Inc./Eastern Air Lines Route Transfer and Certificate Amendments* case, Order 72-11-22, November 7, 1972, pp. 3-4; Texas International Airlines, Inc. Route Realignment, Order 73-1-47, January 15, 1973. We find nothing that would warrant a different conclusion here.

It is true that service in most markets, especially smaller markets like Wichita-Memphis must rely on traffic in beyond markets, as well as on purely local traffic. However, the question of whether an additional carrier will be certificated to provide Memphis-Denver nonstop service and, if so, which carrier should be selected wil depend upon a wide variety of factors—the preexisting service in the market (as distinguished from the services that may be operated pursuant to any awards made inthe present case); the size of the beyond traffic flows at either end of the route, the cities that provide the beyond traffic, and the ability of the various carriers to tap these flows; the relative importance, in the context of the overall public convenience and necessity, of additional Memphis-Denver nonstop service and service in the intermediate markets; and the magnitude of the financial impact that an award of competitive nonstop authority might have on both applicant and incumbent carriers, to mention but a few of the relevant factors. Viewing the situation overall, we conclude that Piedmont and Southern have not presented facts which establish that a grant of permissive Memphis-Wichita-Denver authority in this proceeding would preclude a subsequent grant of their excluded nonstop applications.

Both carriers will, of course, have a full opportunity to prosecute their own applications for Memphis-Witchita-Denver authority in the present proceeding on the same basis as other applicants for such authority. Further, both will have the opportunity normally accorded parties asserting *Ashbacker* claims to establish by evidence on the record that a grant of one-stop authority to another carrier would preclude as a matter of economic fact a later grant of their nonstop applications.

On the merits, we also conclude that the requests should be denied.[8] While Memphis-Denver nonstop overlaps the issues in the *Wichita* case, inclusion of the nonstop question is not necessary to a sound disposition of the issues in *Wichita*, would substantially broaden and complicate the case, and would shift the focus of the proceeding from its basic objective of considering the service needs of Wichita.

It is significant that the Memphis and Denver Parties, who strongly assert their entitlement to a prompt hearing on Memphis-Denver service, do not see the *Wichita* case as an appropriate forum for consideration of the nonstop issue, and filed concurrently with their answers a joint petition for institution of a separate proceeding to consider the question of Memphis-Denver nonstop service. They point out that the Memphis-Denver nonstop question includes issues of beyond-Denver and beyond-Memphis traffic flows and service patterns broader than those involved in the *Wichita* case, and that using the *Wichita* case as the forum for considering the nonstop question would detract from the prime focus of the proceeding—consideration of Wichita's service needs—as well as diluting and confusing the type of consideration the Memphis-Denver nonstop question requires.

The joint petition of the Memphis and Denver Parties will be dealt with later in a separate order and we express no views on what should be the disposition of that petition. We note only that whatever the ultimate action on the petition may be, it would not affect our conclusion that Memphis-Denver nonstop service should not be added as an issue in the present proceeding.

The petitions of the Kansas and San Francisco Parties for reconsideration of the determination not to include the Wichita-San Francisco market in the case will be denied. The original request of the Kansas Parties that the issue of competitive Wichita-San Francisco service be included was fully considered by the Board in framing the issues in the case. The petitioners have not shown error in the Board's determination not to include the Wichita-San Francisco market, nor have they presented new matters that would require or warrant the requested broadening of the issues.

Continental requests inclusion of the issue of modifying the Pacific Northwest long-haul restriction in its certificate for Route 29 so as to make possible Wichita-Houston, Wichita-New Orleans, and Wichita-Oklahoma City turnaround service. Continental asserts that it has on file a Subpart N application, Docket 27124, seeking removal of the long-haul restriction; that while the purpose of this case was to provide incumbent Wichita carriers with relief from operating restrictions affecting service to Wichita, the Board included none of Continental's markets; and that inasmuch as the Board has already carved out of the Subpart N application for hearing in the *Oklahoma-Denver-Southeast Points* case the Oklahoma City-Denver market, it should do the same here unless it decides to set the Subpart N application for hearing promptly.

[5] A number of petitions for leave to intervene have been filed. Those petitions will be left for disposition by the administrative law judge under delegated authority.

[6] Delta and Piedmont take the position that the Board's order may be construed as having already placed nonstop service in issue. The order as a whole makes it clear, we think, that the Board, in setting up this proceeding to consider Wichita's needs, did not intend to include the issue of service between cities east and west of Wichita overflying that point. To remove any uncertainty, we will impose a pretrial limitation providing that flights between points east of Wichita and west of Wichita operated pursuant to any new or improved authority granted in the proceeding shall serve Wichita.

[7] The applications of Piedmont and Southern request a Memphis-Wichita-Denver route segment, but with the right to operate nonstop between Memphis and Denver.

[8] In support of their requests, Delta, Piedmont, and Southern cite the Board's refusal to include Memphis-Denver service in the *Oklahoma-Denver-Southeast Points Investigation*, Docket 20421; the possible termination of the Braniff/Eastern Denver-Memphis-Atlanta interchange as an outcome of the case and a resulting downgrading of Braniff's Denver-Memphis service for a substantial volume of traffic; and the ability of carriers with the support traffic of routes east of Memphis to provide the kind of service needed in the Memphis-Denver market.

Since the time that Continental's petition was filed, the Board has issued Order 76–3–71 directed to Continental's Subpart N application. Although the Board in that order refused to set the Subpart N application for hearing, it directed interested persons to show cause why it should not modify Continental's long-haul restriction to make possible Wichita-Houston and Wichita-New Orleans turnaround service. The Board did not include Wichita-Oklahoma City turnaround service in the show-cause order on the ground that Continental's schedule exhibits attached to its Subpart N application showed no proposed change in its existing pattern of Wichita-Oklahoma City service. The Board also noted that Wichita-Oklahoma City is smaller than the other markets and that Braniff, rather than Continental, is the predominant carrier in the market.

It appears that the action taken in Order 76–3–71 has satisfied in substantial part Continental's petition here, and the carrier has presented nothing that would warrant adding Wichita-Oklahoma City turnaround service as an issue. Neither the Kanasas Parties nor any other city or civic group filed in support of Continental's request and Frontier, while not opposing the request, has indicated that if Wichita-Oklahoma City turnaround service is added it will seek inclusion of the modification of its own Wichita-Oklahoma City one-stop restriction. Under the circumstances, a grant of Continental's petition would unnecesarily broaden and complicate the proceeding.

Frontier, in its petition for reconsideration, requests modification of the stop requirements in its certificate relating to flights between Denver and Little Rock/Memphis, Las Vegas and Wichita, and Las Vegas and Little Rock/Memphis.[7] The background of Frontier's request is this: Following the filing of the petition of the Kansas Parties for hearing, Frontier filed an application for amendment of its certificate under Subpart M procedures to make possible nonstop operations between Denver and Wichita and Wichita and Little Rock. In the supporting documents accompanying the application, Frontier proposed two daily round trips Denver-Wichita-Little Rock-Memphis, with one of the round trips serving Las Vegas as a point beyond Denver. At that time, Frontier had a Las Vegas-Denver nonstop segment with no restriction on service between Las Vegas and the points to the east, and if granted the authority sought in the Subpart M application could have operated Las Vegas-Denver-Wichita-Memphis-Little Rock flights by tacking the new authority to its existing Las Vegas-Denver authority.

Thereafter, the Board realigned Frontier's route into a single segment (Order 75–7–5), and in the process imposed various stop requirements on flights in specified markets.[8] It is those requirements that Frontier seeks to have modified.[9] Frontier alleges that the restrictions reflected the preexisting segmentation of its certificate and that if it is awarded authority in the primary markets these "certificate anachronisms," which would prevent it from providing benefits to beyond markets, should no longer apply.

With respect to the Denver-Little Rock/Memphis restrictions, the Board, by consolidating Delta's application, has already placed in issue Denver-Memphis one-stop service, so that the only additional issue would be one-stop Denver-Little Rock service via Wichita. Turning to the Las Vegas restrictions, Frontier, as noted, could have obtained authority for Las Vegas-Denver-Wichita-Little Rock-Memphis flights but for the realignment and proposed such flights in its Subpart M application. Consolidation of the proposed stop modifications would not unduly broaden the case or change its focus and could afford Frontier additional scheduling flexibility and traffic support for service in the Wichita markets in issue.

Nearly two weeks after the date prescribed for petitions for reconsideration, applications, and motions to consolidate, Frontier filed Amendment No. 2 to its certificate application and an amended motion to consolidate which sought to include the following additional stop modifications: reduce from two to one the required stops between Tucson and Wichita and between Colorado Springs and Memphis; reduce from three to two the stops between Phoenix and Little Rock; and remove the requirement that flights between Albuquerque and Little Rock serve Dallas.

Texas International Airlines, which did not file an answer to Frontier's petition for reconsideration or its original motion to consolidate, filed an answer to the amended motion opposing not just the new proposal, but also the original request as it related to Las Vegas-Little Rock/Memphis.[10]

Frontier's amended motion was untimely and the carrier did not seek leave to file or make any showing of good cause for its late filing. Frontier's amended motions, Amendment No. 2, and Texas International's answer accordingly will be dismissed. Even were we to consider the amended motion on the merits, we would deny the request.

The additional stop restrictions sought to be included relate only indirectly to consideration of Wichita's service needs, their addition would unnecessarily broaden the proceeding, and some of the markets, *e.g.* Albuquerque-Little Rock, could be highly controversial. Under the issues as framed, Frontier can receive authority to operate through-plane service beyond Denver to Las Vegas—the only single-plane service it proposed in its Subpart M application—and there is nothing which would indicate that the additional authority sought is necessary to economical service in the Wichita markets at issue.

In connection with its request for modification of the stop requirements relating to Las Vegas, Frontier seeks to include the issue of whether TWA's authority to provide single-plane Wichita-Las Vegas service should be terminated or restricted. The Kansas Parties support the request and TWA and the Bureau oppose.

Frontier points to TWA's failure to utilize its Wichita-Las Vegas nonstop authority, or even to provide single-plane service in the market. It asserts that the Board in prior cases has recognized the need to examine the dormant authority of an incumbent carrier which could be resurrected to undermine the developmental efforts of a new applicant and that a failure to do so here could have an adverse effect on service to Wichita, since TWA's dormant authority would be a "dis-incentive" to Frontier's development of the Wichita-Las Vegas market.[11] The Kansas Parties take the position that the proposed issue is a logical corollary of the issue of Wichita-Las Vegas one-stop authority, and that although they do not at this time endorse restriction of TWA's authority, the Board should know TWA's intentions regarding its presently unused nonstop authority.

The request will be denied. The limited expansion of the issues to allow consideration of a modification of Frontier's Las Vegas stop requirements does not warrant a still further expansion to consider the controversial issue of trunkline deletion. Additionally, since Frontier is a major participant in the Las Vegas-Denver market and already operates a substantial number of nonstop Las Vegas-Denver flights, the carrier's argument as to the inhibiting effect TWA's dormant authority could have on its developmental efforts is not persuasive. Finally, while we deem a detailed analysis of prior Board actions unnecessary, we note that the cases cited by Frontier

[7] Frontier simultaneously filed Amendment No. 1 to its certificate application, Docket 27980, and a motion to consolidate. The Kansas Parties and the Bureau support Frontier's request and no person filed an answer in opposition to the petition or motion to consolidate.

[8] The stop requirements included the following: one-stop: Denver-Wichita, Wichita-Little Rock, and Wichita-Memphis; two-stop: Denver-Little Rock, Denver-Memphis, and Las Vegas-Wichita; three-stop, plus the requirement that the flights serve Albuquerque and Dallas/Ft. Worth, Las Vegas-Little Rock, and Las Vegas-Memphis.

[9] Frontier would reduce the required two and three stops by one in the listed markets and would eliminate the requirement for service to Albuquerque and Dallas/Ft. Worth.

[10] TXIA has single-plane Albuquerque-Little Rock authority. It is not certificated to serve Las Vegas, but has pending an application for Albuquerque-Las Vegas authority.

[11] Frontier cites inclusion of the issue of suspension or termination of United's single-plane Rochester/Buffalo-Twin Cities authority in the *Buffalo-Twin Cities Nonstop Service Investigation*, Order 68–9–77, of its own authority in the Dallas-Kansas City and Omaha-Chicago markets, Orders 76–1–82 and 72–10–10, and of the authority of the incumbent carriers in the recently instituted *Baltimore-Norfolk Service Case*, Order 75–7–22.

differed in significant respects from the situation here.[12]

National, supported by Delta and Eastern, requests imposition of a pretrial restriction prohibiting TWA under any authority granted in the case from providing one-stop single-plane service between Atlanta and San Francisco via Wichita.[13] National takes the position that since the Board refused to consolidate Eastern's application for an Atlanta-Wichita-San Francisco segment, in part to prevent the *Wichita* case from becoming a forum for consideration of new transcontinental services, it should, in keeping with that action, preclude at the outset possible transcontinental service between Southeastern States and Florida points and San Francisco, via Wichita. National asserts that the Atlanta-San Francisco market is not large; that the Board has authorized suspension of National's competitive nonstop service since 1974 in recognition of market size and Delta's alternative services; that when National resumes service in the near future, it will take time to develop traffic to support economical operations; and that the last thing it needs is to have a major carrier enter the market with expedited through services as a result of an unrestricted award in this proceeding.

The request will be denied. The tacking of preexisting authority is a normal incident of a grant of new route authority, and the matters that have been presented do not warrant imposition of a pretrial restriction limiting, in advance of the evidentiary hearing, the through services TWA should be allowed to provide ursuant to any new authority it may receive in the case. Eastern's application sought a lengthy new route extension to an entirely new point, and the refusal to consolidate that application provides no basis for imposing the requested pretrial limitation on TWA. National can fully protect its interests by evidence at the hearing and argument in support of any restrictions it may believe should be imposed on authority awarded in the case.

The remaining matters raised by the petitions for reconsideration—clarification as to whether the proceeding, as now constituted, includes the issue of Atlanta-Denver and Wichita-Los Angeles nonstop service, and elimination of the requirement that the applicants submit environmental data—can be disposed of briefly.

The Board did not intend to place Atlanta-Denver nonstop service, which is already in issue in *Oklahoma-Denver-Southeast Points*, in issue in the present proceeding. Also, the Board in including Wichita-Los Angeles service intended to go no farther than to consider modification of Continental's restriction prohibiting single-plane service so as to permit one-stop service via Denver. While several carriers requested clarification, no party has urged that nonstop service in either market be placed in issue. The petitioning parties have not presented matters that warrant elimination of the requirement that they file environmental data pursuant to Part 312 of the Procedural Regulations.

A number of carriers have filed motions to consolidate applications. Piedmont's application (Docket 28930), and Southern's application (Dockket 28931) both request a Memphis-Wichita-Denver route segment and should be consolidated, except to the extent they seek Memphis-Denver nonstop authority. Braniff's application (Docket 28929) seeks a Denver-Witchita-Little Rock-Memphis segment and a separate Wichita-Atlanta segment and shuold be consolidated. Continental's application (Docket 28927) for modification of its certificate restriction against single-plane Wichita-Los Angeles service should also be consolidated. For the reasons heretofore set forth, Continental's request for consolidation of portions of its Subpart N application (Docket 27124) should be denied. Also, for the reasons previously given, Amendment No. 1 to Frontier's application (Docket 27980) should be consolidated and both its motion to consolidate Amendment No. 2 and the amendment should be dismissed.

TWA has filed and requested consolidation of its application in Docket 28932. That application seeks a new segment between Atlanta, Wichita, and Denver, and also seeks the deletion of Condition No. 32 from its certificate for Route 2. Condition No. 32 provides that the holder "shall not provide single-plane service between Denver, Colo., on the one hand, and Atlanta, Ga., Miami, Fort Lauderdale, or Tampa-St. Petersburg-Clearwater, Fla., on the other hand." The Atlanta-Wichita-Denver segment sought is squarely within the issues. Elimination of Condition No. 32 in its entirety would make possible new single-plane service between points that are not in issue and also single-plane service between Atlanta and Denver via St. Louis. Condition No. 32, accordingly, will be placed in issue only to the extent it precludes single-plane service between Atlanta and Denver, via Wichita.[14]

Accoringly, *is is ordered:*

1. That the issues in the proceeding be and hereby are modified by imposing the following limitation on the awards that may be made in the case: Flights between a point or points east of Wichita and a point or points west of Wichita operated pursuant to new or improved authority granted in the proceeding shall serve Wichita;

2. That the following applications, to the extent that they conform to the scope of the issues, be and hereby are consolidated into the proceeding: Braniff Airways, Inc., Docket 28929; Continental Air Lines, Inc., Docket 28927; Piedmont Aviation, Inc., Docket 28930; and Southern Airways, Inc., Docket 28931;

3. That the application of Trans World Airlines, Inc., Docket 28932, be and hereby is consolidated into the proceeding: *Provided*, that the proposed modification of Condition No. 32 of the carrier's certificate for Route 2 is consolidated only to the extent such condition would otherwise preclude single-plane service between Atlanta, Ga., and Denver, Colo., via Wichita, Kans.;

4. That Amendment No. 1 to the application of Frontier Airlines, Inc., Docket 27980, be and hereby is consolidated into the proceeding;

5. That the motion of Continental to consolidate a portion of its application, Docket 27124, be and hereby is denied; that the amended motion of Frontier to consolidate Amendment No. 2 to its application, Docket 27980, Amendment No. 2 itself, and the answer of Texas International Airlines, Inc., to the amended motion be and hereby are dismissed;

6. That all requests for elimination of the requirement for filing environmental evaluations imposed by directory paragraph 14 of Order 76-2-27, be and hereby are denied;

7. That all petitions for reconsideration and/or clarification, except to the extent that the action taken herein constitutes a grant thereof, be and hereby are denied; and

8. That to the extent the applications listed in paragraphs 2 and 3 hereof do not conform to the scope of the proceeding, the nonconforming portions thereof be and hereby are dismissed without prejudice.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
*Acting Secretary.*

[FR Doc.76-16864 Filed 6-9-76;8:45 am]

[12] For example, *Buffalo-Twin Cities* involved a 700-mile extension of Mohawk's routes to an entirely new point. The other cases had such distinguishing characteristics as much large markets, the authority of the incumbent carriers was in markets that were a primary focus of the proceedings, or the incumbent carriers did not object to inclusion of the suspension/termination issue.

[13] The Bureau and TWA oppose the requests. TWA's answer was not timely. However, the carrier filed an appropriate motion for leave to file, alleging that it did not receive a copy of National's petition and became aware of the proposal only through references to it in Eastern's answer. TWA has shown good cause for the late filing and its answer will be received.

[14] As a technical matter, TWA's Condition 29 will also be placed in issue for modification insofar as it would preclude single-plane service between Atlanta and Wichita (other than via Kansas City), and between Atlanta and Denver via Wichita.

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 76-101]

### CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

#### Open Meeting

The Chemical Transportation Industry Advisory Committee Task Group on Liquefied Gas Vessels will conduct an open meeting on 29 June 1976 in Room 8332 of the Nassif Building, 400 7th Street SW., Washington, D.C. The meeting is scheduled to begin at 8:30 a.m.

The purpose of the meeting is to discuss the IMCO Codes for Liquefied Gas Ships, new and existing, and other appropriate matters that may be brought before the task group.

The Coast Guard Chemical Transportation Industry Advisory Committee was established to provide the Commandant of the Coast Guard advice and consultation with respect to safe water transportation of hazardous materials.

Members of this committee serve voluntarily without compensation from the Federal Government for either travel or per diem.

Interested persons may obtain additional information or the summary of the minutes of the meeting by writing to:

Mr. W. E. McConnaughey, Commandant (G-MHM), U.S. Coast Guard, Washington, D.C. 20590.

or by calling (202) 426-2306.

This notice is issued under section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463, 96 Stat. 70, 5 U.S.C. App. I.)

Dated: June 4, 1976.

H. G. LYONS,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.76-16858 Filed 6-9-76;8:45 am]

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[CGD 76-100]

### CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

#### Open Meeting

The Chemical Transportation Industry Advisory Committee Task Group on Chemical Vessels will conduct open meetings on 30 June and again on 10 August 1976, in Room 8332 of the Nassif Building, 400 7th Street S.W. Washington, D.C. The meetings are scheduled to begin at 8:30 a.m.

The agenda for these meetings is as follows:

(1) Introduction of attendees.

(2) Report on First Session of IMCO's Subcommittee on Bulk Chemicals.

(3) Discussion of:

a. Amendment procedure for the IMCO Code.

b. Damage stability of existing chemical tankers.

c. List of cargoes requiring respiratory protection for each crew member.

d. Revision of special requirements for propylene oxide.

e. Revision of materials of construction special requirements.

f. Data on new products.

g. Overflow controls and quick closing valves.

h. Carriage of chemicals in deep tanks of cargo ships; and

i. Other appropriate matters that may be brought before the committee.

The Coast Guard Chemical Transportation Industry Advisory Committee was established to provide the Commandant of the Coast Guard advice and consultation with respect to safe water transportation of hazardous materials.

Members of this committee serve voluntarily without compensation from the Federal Government for either travel or per diem.

Interested persons may obtain additional information or the summary of the minutes of the meetings by writing to:

Mr. W. E. McConnaughey, Commandant (G-MHM), U.S. Coast Guard, Washington, D.C. 20590
or by calling (202) 426-2306.

This notice is issued under section 10 (a) of the Federal Advisory Committee Act (Pub. L. 92-463, 96 Stat. 70, 5 U.S.C. App. I.)

Dated: June 4, 1976.

H. G. LYONS,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.76-16859 Filed 6-9-76;8:45 am]

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[CGD 76-168]

### THE SHIP STRUCTURE COMMITTEE

#### Notice of Renewal

The Charter for the Ship Structure Committee has been renewed by the Secretary of Transportation for a two year period commencing July 1, 1976 through June 30, 1978. The Secretary has determined that this renewal is in the public interest.

The purpose of the Committee is to conduct an aggressive research program which will, in the light of changing technology in marine transportation, improve the design, materials and construction of the hull structure of ships by an extension of knowledge in these fields for the ultimate purpose of increasing the safe operation of ships.

The Committee is composed of the following ex-officio members or their designated representatives.

Commandant, U.S. Coast Guard, Department of Transportation.
Commander, Military Sealift Command, Department of the Navy.
President, American Bureau of Shipping.
Commander, Naval Sea Systems Command, Department of the Navy.
Assistant Secretary for Maritime Affairs, Department of Commerce.

Interested persons may seek additional information by writing: LCDR E. A. CHAZAL, Jr. USCG, Secretary, Ship Structure Committee, U.S. Coast Guard (G-MMT-4), Washington, D.C. 20590.

This notice is issued under the authority of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. App. 1) of October 6, 1972.

Dated: June 4, 1976.

S. A. WALLACE,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Public and International Affairs.*

[FR Doc.76-16860 Filed 6-9-76;8:45 am]

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[CGD 76-094]

### EQUIPMENT, CONSTRUCTION, AND MATERIALS

#### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from February 2, 1976 to March 25, 1976 (List No. 4-76). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS, FOR MERCHANT VESSELS

Approval No. 160.011/1/3, MSA One-Man Combination Hose Mask, supplied-air respirator; Part No. 457140 with centrifugal blower and One-Man Combination Hose Mask with displacement blower, Part No. 457141; both with MSA Ultra-Vue Facepiece and Cleartone speaking diaphragm facepiece; Bureau of Mines Approval No. 1905A, dwg. Nos. A1129-1, revision 13 dated June 17, 1968; B-84062, revision 10 dated August 28, 1970; B-48011, revision 10 dated August 28, 1970; B-84063, revision 10 dated August 28, 1970; B-84012, revision 9 dated August 28, 1970; A-96680 dated February

21, 1965, manufactured by Mine Safety Appliances Company, 201 North Braddock Avenue, Pittsburgh, Pennsylvania 15208, effective February 2, 1976. (It is an extension of Approval No. 160.011/1/3 dated March 24, 1971.)

Approval No. 160.011/2/3, MSA Two-Man Combination Hose Mask with displacement blower Part No. 457143 and Two-Man Combination Hose Mask with centrifugal blower Part No. 457142, with Ultra-Vue Facepiece which may be used with Cleartone speaking diaphragm facepiece assembly Part No. 48526, Bureau of Mines Approval No. 1905A, dwg. Nos. A1129–1, revision 13 dated June 17, 1968; B–84062, revision 10 dated August 28, 1970; B–84011, revision 10 dated August 28, 1970; B–84063, revision 10 dated August 28, 1970; B–84012, revision 9 dated August 28, 1970; and dwg. No. A–96680 dated February 21, 1965, manufactured by Mine Safety Appliances Company, 201 North Braddock Avenue, Pittsburgh, Pennsylvania 15208, effective February 2, 1976. (It is an extension of Approval No. 160.011/2/3 dated March 24, 1971.)

LIFEBOATS

Approval No. 160.035/472/1, 30.0′ × 10.0′ × 4.33′ fibrous glass reinforced plastic (FRP), totally enclosed (covered) Clas 1 motor-propelled, lifeboat, 64-person capacity, identified by general arrangement dwg. No. P–30–2M, Rev. D (undated), and drawing list PC–30–MP, Rev. C, dated January 21, 1976, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=8,297 pounds; Condition "B"= 20,150 pounds, manufactured by Marine Safety Equpiment Corporation, Foot of Wyckoff Road, Farmingdale, New Jersey 07727, effective March 10, 1976. (It supersedes Approval No. 160.035/472/1 dated October 5, 1973 to show updated general arrangement dwg. and dwg. list.)

Approval No. 160.035/473/0, 26.0′ × 9.0′ × 3.83′ fibrous glass reinforced plastic (FRP), totally enclosed (covered) Class 1 motor-propelled, lifeboat, 42 person capacity identified by general arrangement dwg. No. P–26–2M, Rev. B dated January 15, 1975, and drawing list PC–26–MP, Rev. B, dated January 2, 1976, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=6,932 pounds; Condition "B"=14,785 pounds, manufactured by Marine Safety Equipment Corporation, Foot of Wyckoff Road, Farmingdale, New Jersey 07727, effective March 10, 1976. (It supersedes Approval No. 106.035/473/0 dated October 9, 1973 to show updated general arrangement dwg. and dwg. list.)

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

Approval No. 160.048/223/1, special approval for 14″ × 17″ × 2″, rectangular ribbed type kapok buoyant cushion, 21 oz. kapok, Dwg. Nos. 1 and 2, Rev. 2 dated July 7, 1966, Type IV PFD, manufactured by Style-Crafters, Inc., Box 8277, Station A, Greenville, South Carolina 29604, effective March 1, 1976. (It is an extension of Approval No. 160.048/223/1 dated April 27, 1971.)

INFLATABLE LIFE RAFTS

Approval No. 160.051/72/0, 4-person inflatable life raft, identified by general arrangement drawing E 741–150 dated October 31, 1974 and drawing list dated April 16, 1975, passed 100 foot drop test, manufactured by Revere Survival Products Company, Inc., 1030 Grand Boulevard, Deer Park, New York 11729, effective March 25, 1976. (It supersedes Approval No. 160.051/72/0 dated April 28, 1975; "Remarks" information added.)

Approval No. 160.051/73/0, 6-person inflatable life raft, identified by general arrangement drawing E 741–150 dated October 31, 1974 and drawing list dated April 16, 1975, passed 100 foot drop test, manufactured by Revere Survival Products Company, Inc., 1030 Grand Boulevard, Deer Park, New York 11729, effective March 25, 1975. (It supersedes Approval No. 160.051/73/0 dated April 28, 1975; "Remarks" information added.)

Approval No. 160.051/74/0, 8-person inflatable life raft, identified by general arrangement drawing E 741–150 dated October 31, 1974 and drawing list dated April 16, 1975, passed 100 foot drop test, manufactured by Revere Survival Products Company, Inc., 1030 Grand Boulevard, Deer Park, New York 11729, effective March 25, 1975. (It supersedes Approval No. 160.051/74/0 dated April 28, 1975; "Remarks" information added.)

Approval No. 160.051/75/0, 10-person inflatable life raft, identified by general arrangement drawing E 741–150 dated October 31, 1974 and drawing list dated April 16, 1975, passed 100 foot drop test, manufactured by Revere Survival Products Company, Inc., 1030 Grand Boulevard, Deer Park, New York 11729, effective March 25, 1975. (It supersedes Approval No. 160.051/75/0 dated April 28, 1975; "Remarks" information added.)

Approval No. 160.051/76/0, 12-person inflatable life raft, identified by general arrangement drawing E 741–150 dated October 31, 1974 and drawing list dated April 16, 1975, passed 100 foot drop test, manufactured by Revere Survival Products Company, Inc., 1030 Grand Boulevard, Deer Park, New York 11729, effective March 25, 1976. (It supersedes Approval No. 160.051/76/0 dated April 28, 1975; "Remarks" information added.)

Approval No. 160.051/77/0, 15-person inflatable life raft, identified by general arrangement drawing E 741–150 dated October 31, 1974 and drawing list dated April 16, 1975, passed 100 foot drop test, manufactured by Revere Survival Products Company, Inc., 1030 Grand Boulevard, Deer Park, New York 11729, effective March 25, 1976. (It supersedes Approval No. 160.051/77/0 dated April 28, 1975; "Remarks" information added.)

Approval No. 160.051/78/1, 20-person inflatable life raft, identified by general arrangement drawing E 741–150, revision 3 dated October 23, 1975 and drawing list dated October 29, 1975, passed 100 foot drop test, manufactured by Revere Survival Products Company, Inc., 1030 Grand Boulevard, Deer Park, New York 11729, effective March 25, 1976. (It supersedes Approval No. 160.051/78/1 dated December 17, 1975; "Remarks" information added.)

Approval No. 160.051/79/0, 25-person inflatable life raft with "Limited Service Equipment"; identified by general arrangement drawing E 741–150, revision 3 dated October 23, 1975 and drawing list dated October 29, 1975, inflation system can use either steel or aluminum cylinders, two (2) in number, passed 100 foot drop test, manufactured by Revere Survival Products Company, Inc., 1030 Grand Boulevard, Deer Park, New York 11729, effective March 25, 1976. (It supersedes Approval No. 160.051/79/0 dated January 5, 1976; "Remarks" information added.)

Approval No. 160.051/80/0, 25-person inflatable life raft with "Ocean Service Equipment"; identified by general arrangement drawing E 741–150, revision 3 dated October 23, 1975 and drawing list dated October 29, 1975, inflation system requires two (2) aluminum cylinders, passed 100 foot drop test, manufactured by Revere Survival Products Company, Inc., 1030 Grand Boulevard, Deer Park, New York 11729, effective March 25, 1976. (It supersedes Approval No. 160.051/80/0 dated January 5, 1976; "Remarks" information added.)

Approval No. 160/051/88/0, inflatable life raft, 10-person capacity; identified by general arrangement drawing 5RA 1010, revision B dated January 19, 1976 and Specification RFD–US–100, revision No. 3, dated December 9, 1974, canopy supported by centered strut-tube, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24983, effective February 27, 1976.

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/12/0, Models 211–SF–17.5 and 231–SF–17.5 unicellular plastic foam work vests, dwgs. 61D821 and 61D823 with bills of material dated June 21, 1961, Type V PFD, manufactured by Gentex Corporation, Carbondale, Pennsylvania 18407, effective March 1, 1976. (It is an extension of Approval No. 160.053/12/0 dated April 7, 1971.)

MARINE BUOYANT DEVICE

Approval No. 160.064/1080/0, child small, cloth covered unicellular plastic foam "Fish and Hunt Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective March 2, 1976.

Approval No. 160.064/1081/0, child medium, cloth covered unicellular plastic foam "Fish and Hunt Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective March 2, 1976.

Approval No. 160.064/1082/0, adult, cloth covered unicellular plastic foam "Fish and Hunt Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective March 2, 1976.

Approval No. 160.064/1083/0, adult cloth covered unicellular plastic foam "Fish and Hunt Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective March 2, 1976.

Approval No. 160.064/1084/0, adult, cloth covered unicellular plastic foam "Fish and Hunt Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective March 2, 1976.

Approval No. 160.064/1085/0, adult, cloth covered unicellular plastic foam "Fish and Hunt Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective March 2, 1976.

Approval No. 160.064/1096/0, adult, Model No. LSV–U, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 174, factory location: West Austin Street, Tolono, Illinois 61880, Type III PFD, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, Illinois 61880, effective March 24, 1976.

Approval No. 160.064/1097/0, adult, Model Angler, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29604, effective March 2, 1976.

Approval No. 160.064/1098/0, adult, Model Angler, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29604, effective March 2, 1976.

Approval No. 160.064/1099/0, adult, Model Angler, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29604, effective March 2, 1976.

Approval No. 160.064/1100/0, adult, Model Angler, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29604, effective March 2, 1976.

Approval No. 160.064/1106/0, adult, Model No. 57821, vinyl dipped unicellular plastic foam "Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 48, Type III PFD, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, Illinois 61880, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective March 24, 1976.

SAFETY VALVES (STEAM HEATING BOILERS)

Approval No. 162.012/21/0, Type 1511 Series cast iron safety valve for steam heating boilers and unfired steam generators, dwg. No. 3VP953, dated February 10, 1956, approved for a maximum pressure of 30 p.s.i.g. in the following sizes and relieving capacities:

| Size (inches) | Type No. | Capacity (pounds per hour at 30 lb/in²g) |
|---|---|---|
| 1¼ | 1511 H | 1,615 |
| 1½ | 1511 J | 2,650 |
| 2 | 1511 K | 3,790 |
| 2½ | 1511 L | 5,875 |
| 3 | 1511 M | 7,410 |
| 4 | 1511 N | 8,935 |
| 4 | 1511 P | 13,135 |

manufactured by DRESSER, Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective March 8, 1976. (It is an extension of Approval No. 162.012/21/0 dated March 9, 1971.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval 164.009/28/1, "B–E–H Spun Felt", mineral wool insulation type incombustible material identical to that described in National Bureau of Standards Report Nos. TG10210–1921: FP3257 dated December 16, 1954, and TG10210–2021: FP3448 dated May 6, 1958, approved in a density of from 2½ to 4 pounds per cubic foot, manufactured by Keene Corporation, Ceiling and Insulation Division, Princeton Service Center, U.S. Route 1, Princeton, New Jersey 08540, Plant: Huntington, Indiana, effective March 2, 1976. (It is an extension of Aproval No. 164.009/28/1 dated April 2, 1971.)

Approval No. 164.009/144/0, "Birma Incombustible CG Insulation" fibrous glass insulation material identical to that described in National Bureau of Standards Test Report No. FR3751 dated April 1, 1971 and Birma Products Corporation letters dated January 26, 1971 and February 22, 1971, approved in a ½" through 2" thickness and 4.5 pounds per cubic foot density, manufactured by Birma Products Corporation, Jernee Mill Road, Sayreville, New Jersey 08872, effective March 2, 1976. (It is an extension of Approval No. 164.009/144/0 dated April 29, 1971.)

Dated: June 4, 1976.

H. G. LYONS,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.76–16852 Filed 6–9–76;8:45 am]

[CGD 76–095]

## EQUIPMENT, CONSTRUCTION, AND MATERIALS

### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from March 29, 1976 to April 12, 1976 (List No. 6–76). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT, FOR MERCHANT VESSELS

Approval No. 160.033/64/0, Rottmer type releasing gear, approved for maximum working load of 25,100 pounds per hook, identified by disengaging apparatus drawing No. 502–111 dated August 21, 1975 and Model 5000 disengaging apparatus master drawing list dated March 31, 1976, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, California 92041, effective April 12, 1976.

LIFEBOATS

Approval No. 160.035/483/0, Model CA 5000, 19.75' x 14.0' x 5.12' fibrous glass reinforced plastic (FRP) motor propelled, totally enclosed survival capsule fitted with Perkins 4.154 diesel engine, 50 person capacity, as alternate for lifeboat, inflatable life raft or life float, identified by master drawing list for Model 5000, revision B, dated April 6, 1976 and general arrangement drawing CA5000-101 dated February 12, 1976, designated as Model CA5001 when equipped with righting bag, identified by master drawing list for Model 5001, dated February 20, 1976 and general arrangement drawing CA5001-101 dated February 12, 1976, approved for use only on artificial islands, fixed structures, and drilling rigs, both self-propelled, semi-submersible and nonself-propelled, 46 CFR 160.035-13(c) marking, weights: Condition "A"=7,435 pounds; Condition "B"=16,824 pounds, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, California 92041, effective April 12, 1976.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.052/387/0, adult, Model AP-2, non-standard unicellular plastic foam buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.052 and UL/MD report file No. MQ 139, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.052/387/0 dated November 2, 1972 to show change of name of manufacturer.)

Approval No. 160.052/388/0, child medium, Model CPM, non-standard unicellular plastic foam buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.052 and UL/MD report file No. MQ 139, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.052/388/0 dated November 2, 1972 to show change of name of manufacturer.)

Approval No. 106.052/389/0, child small, Model CPS, non-standard unicellular plastic foam buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.052 and UL/MD report file no MQ 139, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.052/389/0 dated November 2, 1972 to show change of name of manufacturer.)

Approval No. 160.052/414/0, adult, Model AP, non-standard unicellular plastic foam buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.052 and UL/MD report file No. MQ 170, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.052/414/0 dated November 2, 1972 to show change of name of manufacturer.)

Approval No. 160.052/415/0, child medium, Model CPM, non-standard unicellular plastic foam buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.052 and UL/MD report file No. MQ 170, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.052/415/0 dated November 2, 1972 to show change of name of manufacturer.)

Approval No. 160.052/416/0, child small, Model CPS, non-standard unicellular plastic foam buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.052 and UL/MD report file No. MQ 170, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.052/416/0 dated November 2, 1972 to show change of name of manufacturer.)

Approval No. 160.052/417/0, adult, Model AP, non-standard unicellular plastic foam buoyant vest manufactured in accordance with U.S.C.G. Specification Subpart 160.052, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.052/417/0 dated June 10, 1975 to show change of name of manufacturer.)

Approval No. 160.052/418/0, child medium, Model CPM, non-standard unicellular plastic foam buoyant vest manufactured in accordance with U.S.C.G. Specification Subpart 160.052, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.052/418/0 dated June 10, 1975 to show change of name of manufacturer.)

Approval No. 160.052/419/0, child small, Model CPS, non-standard unicellular plastic foam buoyant vest manufactured in accordance with U.S.C.G. Specification Subpart 160.052, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.052/419/0 dated June 10, 1975 to show change of name of manufacturer.)

MARINE BUOYANT DEVICE

Approval No. 160.064/24/0, 18-inch, Model No. 6534-18, vinyl dipped unicellular plastic foam "Ring Buoy", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type IV PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/24/0 dated August 4, 1972 to show change of name of manufacturer and Model No.)

Approval No. 160.064/147/0, child small, Model No. CGV-XS, vinyl dipped unicellular plastic foam "Ski 'N' Sport Safety Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/147/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/148/0, child medium, Model No. CGV-S/M vinyl dipped unicellular plastic foam "Ski 'N' Sport Safety Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/148/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/149/0, adult large, Model No. CGV-M/L, vinyl dipped unicellular plastic foam "Ski 'N' Sport Safety Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/149/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/150/0, adult X-large, Model No. CGV-L/XL, vinyl dipped unicellular plastic foam "Ski 'N' Sport Safety Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento

Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/150/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/151/0, child small, Model CGV–XS, vinyl dipped unicellular plastic foam "Ski and Sport Safety Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/151/0 dated April 4, 1973 to show change of name of manufacturer.)

Approval No. 160.064/152/0, child small, Model No. CGV–S/M, vinyl dipped unicellular plastic foam "Ski and Sport Safety Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/152/0 dated April 4, 1973 to show change of name of manufacturer.)

Approval No. 160.064/153/0, adult, Model No. CGV–M/L, vinyl dipped unicellular plastic foam "Ski and Sport Safety Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/153/0 dated April 4, 1973 to show change of name of manufacturer.)

Approval No. 160.064/154/0, adult, Model No. CGV–L/XL, vinyl dipped unicellular plastic foam "Ski and Sport Safety Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/154/0 dated April 4, 1973 to show change of name of manufacturer.)

Approval No. 160.064/195/0, child small, Model No. 7–0075, vinyl dipped unicellular plastic foam "Ski & Sport Safety Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 63, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Western Wood Manufacturing Company, Lake Oswego, Oregon 97034, effective March 31, 1976. (It supersedes Approval No. 160.064/195/0 dated May 16, 1972 to show change of name of manufacturer.)

Approval No. 160.064/196/0, child small, Model No. 7–0076, vinyl dipped unicellular plastic foam "Ski & Sports Safety Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 63, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Western Wood Manufacturing Company, Lake Oswego, Oregon 97034, effective March 31, 1976. (It supersedes Approval No. 160.064/196/0 dated May 16, 1972 to show change of name of manufacturer.)

Approval No. 160.064/197/0, adult, Model No. 7–0077, vinyl dipped unicellular plastic foam "Ski & Sport Safety Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 63, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Western Wood Manufacturing Company, Lake Oswego, Oregon 97034, effective March 31, 1976. (It supersedes Approval No. 160.064/197/0 dated May 16, 1972 to show change of name of manufacturer.)

Approval No. 160.064/198/0, adult, Model No. 7–0078, vinyl dipped unicellular plastic foam "Ski & Sport Safety Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 63, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Western Wood Manufacturing Company, Lake Oswego, Oregon 97034, effective March 31, 1976. (It supersedes Approval No. 160.064/198/0 dated May 16, 1972 to show change of name of manufacturer.)

Approval No. 160.064/214/0, child small, Model No. VX80–XS, vinyl dipped unicellular plastic foam "Ski & Sport Safety Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/214/0 dated May 15, 1972 to show change of name of manufacturer.)

Approval No. 160.064/215/0, child small, Model No. VX80–S/M, vinyl dipped unicellular plastic foam "Ski & Sport Safety Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/215/0 dated May 15, 1972 to show change of name of manufacturer.)

Approval No. 160.064/216/0, adult, Model No. VX80–M/L, vinyl dipped unicellular plastic foam "Ski & Sport Safety Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/216/0 dated May 15, 1972 to show change of name of manufacturer.)

Approval No. 160.064/217/0, adult, Model No. VX80–L/XL, vinyl dipped unicellular plastic foam "Ski & Sport Safety Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/217/0 dated May 15, 1972 to show change of name of manufacturer.)

Approval No. 106.064/234/0, child medium, Model No. 6653, vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 106.064 and UL/MD report file No. MQ–47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/234/0 dated April 16, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/235/0, adult, Model No. 6653, vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/235/0 dated April 16, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/236/0, adult, Model No. 6653, vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/236/0 dated April 16, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/237/0, adult, Model No. 6653, vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121,

formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/237/0 dated April 16, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/238/0, adult, Model No. 6653, vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ-47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/238/0 dated April 16, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/239/0, adult ladies, Model No. 6654, vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ-47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/239/0 dated April 16, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/240/0, child medium, Model No. PS-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/240/0 dated February 22, 1973 to show change of name of manufacturer.)

Approval No. 160.064/241/0, adult, Model No. PM-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/241/0 dated February 22, 1973 to show change of name of manufacturer.)

Approval No. 160.064/242/0, adult, Model No. PL-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/242/0 dated February 22, 1973 to show change of name of manufacturer.)

Approval No. 160.064/243/0, adult, Model No. PXL-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/243/0 dated February 22, 1973 to show change of name of manufacturer.)

Approval No. 160.064/244/0, adult, Model No. PXXL-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/244/0 dated February 22, 1973 to show change of name of manufacturer.)

Approval No. 160.064/245/0, ladies adult, Model No. LPZ-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/245/0 dated February 22, 1973 to show change of name of manufacturer and Model No.)

Approval No. 160.064/258/0, child medium, Model No. SR-S, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation 91341, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/258/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/259/0, adult, Model No. SR-M, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/259/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/260/0, adult, Model No. SR-L, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/260/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/261/0, adult, Model No. SR-XL, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/2261/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/262/0, adult, Model No. SR-XXL, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/262/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/263/0, ladies adult, Model No. SR-W, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/263/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/264/0, child medium, Model No. CDV-4, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/264/0 dated May 31, 1972 to show change of name of manufacturer.)

Approval No. 160.064/265/0, adult, Model No. CDV-5, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G.

Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/265/0 dated May 31, 1972 to show change of name of manufacturer.)

Approval No. 160.064/266/0, adult, Model CDV–6, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/266/0 dated May 31, 1972 to show change of name of manufacturer.)

Approval No. 160.064/267/0, adult, Model No. CDV–7, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/267/0 dated May 31, 1972 to show change of name of manufacturer.)

Approval No. 160.064/268/0, adult, Model No. CDV–8, vinyl dipped unicellular plastice foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/268/0 dated May 31, 1972 to show change of name of manufacturer.)

Approval No. 160.064/269/0, ladies adult, Model No. CLF–5, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/269/0 dated May 31, 1972 to show change of name of manufacturer and Model No.)

Approval No. 160.064/281/0, child medium, Model No. VX75CG–S vinyl dipped unicellular plastic foam "Water Ski-Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/281/0 dated May 15, 1972 to show change of name of manufacturer.)

Approval No. 160.064/282/0, adult, Model VX75CG–M, vinyl dipped unicellular plastic foam "Water Ski-Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/282/0 dated May 15, 1972 to show change of name of manufacturer.)

Approval No. 160.064/283/0, adult, Model No. VX75CG–L, vinyl dipped unicellular plastic foam "Water Ski-Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/283/0 dated May 15, 1972 to show change of name of manufacturer.)

Approval No. 160.064/284/0, adult, Model No. VX75CG–XL, vinyl dipped unicellular plastic foam "Water Ski-Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/284/0 dated May 15, 1972 to show change of name and manufacturer.)

Approval No. 160.064/285/0, adult, Model No. VX75CG–SXL, vinyl dipped unicellular plastic foam "Water Ski-Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/285/0 dated May 15, 1972 to show change of name of manufacturer.)

Approval No. 160.064/286/0, ladies adult, Model No. VX78CG, vinyl dipped unicellular plastic foam "Water Ski-Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/286/0 dated May 15, 1972 to show change of name of manufacturer.)

Approval No. 160.064/310/0, child medium, Model DV–S, vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/310/0 dated March 22, 1972 to show change of name of manufacturer.)

Approval No. 160.064/311/0, adult, Model DV-Med., vinyl dipped PVC foam water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/311/0 dated March 22, 1972 to show change of name of manufacturer.)

Dated: June 4, 1976.

H. G. LYONS,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.76–16853 Filed 6–9–76;8:45 am]

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[CGD 76–098]

## EQUIPMENT, CONSTRUCTION, AND MATERIALS

### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from March 29, 1976 to April 7, 1976 (List No. 7–76). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Com-

mandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

MARINE BUOYANT DEVICE

Approval No. 160.064/312/0, adult, Model DV–Lg., vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/312/0 dated March 22, 1972 to show change of name of manufacturer.)

Approval No. 160.064/313/0, adult, Model DV–Xlg., vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/313/0 dated March 22, 1972 to show change of name of manufacturer.)

Approval No. 160.064/314/0, adult, Model DV–XXLg., vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/314/0 dated March 22, 1972 to show change of name of manufacturer.)

Approval No. 160.064/315/0, adult ladies, Model DV-Ladies, vinyl dipped PVC foam, water ski vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/315/0 dated March 22, 1972 to show change of name of manufacturer.)

Approval No. 160.064/362/0, child medium, Model No. 3H34A, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 166, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Chrysler Outboard Corporation, Hartford, Wisconsin 53027, effective March 31, 1976. (It supersedes Approval No. 160.064/362/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/363/0 adult, Model No. 3H35A, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 106.064 and UL/MD report file No. MQ 166, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Chrysler Outboard Corporation, Hartford, Wisconsin 53027, effective March 31, 1976. (It supersedes Approval No. 160.064/363/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/364/0, adult, Model No. 3H36A, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 166, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Chrysler Outboard Corporation, Hartford, Wisconsin 53027, effective March 31, 1976. (It supersedes Approval No. 160.064/364/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/365/0, adult, Model No. 3H37A, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 166, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Chrysler Outboard Corporation, Hartford, Wisconsin 53027, effective March 31, 1976. (It supersedes Approval No. 160.064/365/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/366/0, adult ladies, Model No. 3H38A, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 166, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Chrysler Outboard Corporation, Hartford, Wisconsin 53027, effective March 31, 1976. (It supersedes Approval No. 160.064/366/0 dated August 8, 1972 to show change of name of manufacturer.)

Approval No. 160.064/379/0, child medium, Model No. TDV–4, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/379/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/380/0, adult, Model No. TDV–5, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/380/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/381/0, adult, Model No. TDV–6, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/381/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/382/0, adult, Model No. TDV–7, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976 (It supersedes Approval No. 160.064/382/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/383/0, adult, Model No. TDV–8, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/383/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/384/0, adult ladies, Model TLV–5, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin

54114, effective April 1, 1976. (It supersedes Approval No. 160.064/384/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/394/0, adult S/M, Model No. 100D or 8219, cloth covered unicellular plastic foam "Sailor's Bouyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.-064 and UL/MD report file No. MQ–47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/394/0 dated April 16, 1974 to show change of name of manufacturer.)

Approval No. 160.064/396/0, adult L/XL, Model No. 100F or 8220, cloth covered unicellular plastic foam "Sailor's Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.-064 and UL/MD report file No. MQ–47, type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation effective March 29, 1976. (It supersedes Approval No. 160.064/396/0 dated April 16, 1974 to show change of name of manufacturer.)

Approval No. 160.064/397/0, adult S/M, Model No. 200H or 8221, cloth covered unicellular plastic foam "Sportsman Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/397/0 dated April 16, 1974 to show change of name of manufacturer.)

Approval No. 160.064/398/0, adult L/XL, Model No. 200J or 8222, cloth covered unicellular plastic foam "Sportsman Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/398/0 dated April 16, 1974 to show change of name of manufacturer.)

Approval No. 160.064/424/0, adult S/M, Model No. 100DM, vinyl dipped unicellular plastic foam "Sailor's Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/424/0 dated June 19, 1973 to show change of name of manufacturer.)

Approval No. 160.064/425/0, adult L/XL, Model 100FM, vinyl dipped unicellular plastic foam "Sailor's Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/425/0 dated June 19, 1973 to show change of name of manufacturer.)

Approval No. 160.064/426/0, adult S/M, Model No. 200HM, vinyl dipped unicellular plastic foam "Sportsman Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/426/0 dated December 1972 to show change of name of manufacturer.)

Approval No. 160.064/427/0, adult L/XL, Model No. 200JM, vinyl dipped unicellular plastic foam "Sportsman Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/427/0 dated December 22, 1972 to show change of name of manufacturer.)

Approval No. 160.064/451/0, child XX-small, Model No. 6655, vinyl dipped unicellular plastic foam "Life Jacket and Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/451/0 dated April 16, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/452/0, child X-small, Model No. 6655, vinyl dipped unicellular plastic foam "Life Jacket and Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 29, 1976. (It supersedes Approval No. 160.064/452/0 dated April 16, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/453/0, child small, Model No. CGSV–P, vinyl dipped unicellular plastic foam "Life Jacket and Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatic, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/453/0 dated February 26, 1973 to show change of name of manufacturer.)

Approval No. 160.064/454/0, child small, Model No. CGSV–J, vinyl dipped unicellular plastic foam "Life Jacket and Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 32, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 7, 1976. (It supersedes Approval No. 160.064/454/0 dated February 26, 1973 to show change of name of manufacturer.)

Approval No. 160.064/475/0, child XX-small, Model No. PXS–G, vinyl dipped unicellular plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Bernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/475/0 dated October 10, 1974 to show change of name of manufacturer.)

Approval No. 160.064/476/0, child X-small, Model No. PSS–G, vinyl dipped unicellular plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/476/0 dated October 10, 1974 to show change of name of manufacturer.)

Approval No. 160.064/477/0, adult medium, Model No. YVS/M, cloth covered unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report File No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/477/0 dated June 19, 1973 to show change of name of manufacturer.)

Approval No. 160.064/478/0, adult X-large, Model No. YVL/XL, cloth covered unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.-064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist

Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/478/0 dated June 19, 1973 to show of name of manufacturer.)

Approval No. 160.064/479/0, adult medium, Model No. SVS/M, cloth covered unicellular plastic foam "Sportsman Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/479/0 dated June 19, 1973 to show change of name of manufacturer.)

Approval No. 160.064/480/0, adult X-large, Model No. SVL/XL, cloth covered unicellular plastic foam "Sportsman Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/480/0 dated June 19, 1973 to show change of name of manufacturer.)

Approval No. 160.064/483/0, child XX-small, Model No. SR–P, vinyl dipped unicellular plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/483/0 dated October 11, 1974 to show change of name of manufacturer.)

Approval No. 160.064/484/0, child X-small, Model No. SR–J, vinyl dipped unicellular plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/484/0 dated October 11, 1974 to show change of name of manufacturer.)

Approval No. 160.064/521/0, child XX-small, Model No. DVP, vinyl dipped unicellular plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/521/0 dated October 11, 1974 to show change of name of manufacturer.)

Approval No. 160.064/552/0, child X-small, Model DVJ, vinyl dipped unicellulas plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/522/0 dated October 11, 1974 to show change of name of manufacturer.)

Approval No. 160.064/540/0, child small, Model No. VX75 CG P, vinyl dipped unicellular plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/540/0 dated May 1, 1974 to show change of name of manufacturer.)

Approval No. 160.064/541/0, child small, Model No. VX75 CG J, vinyl dipped unicellular plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ71, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/541/0 dated May 1, 1974 to show change of name of manufacturer.)

Approval No. 160.064/552/0, child medium, Model No. 7201, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/552/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/553/0, adult, Model No. 7202, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/553/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/554/0, adult, Model No. 7203, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/554/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/555/0, adult, Model No. 7204, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/555/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/556/0, adult Model No. 7205, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/556/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/557/0, adult ladies, Model No. 7206, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/557/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/558/0, child small, Model No. 7202, vinyl dipped unicellular plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist In-

dustries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/558/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/559/0, child small, Model No. 7208, vinyl dipped unicellular plastic foam "Swim Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/559/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/560/0, adult S/M, Model No. 7219, cloth covered unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/560/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/561/0, adult L/XL, Model No. 7220, cloth covered unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/561/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/562/0, adult S/M, Model No. 7221, cloth covered unicellular plastic foam "Sportsman Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1076. (It supersedes Approval No. 160.064/562/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/563/0, adult L/XL, Model No. 7222, cloth covered unicellular plastic foam "Sportsman Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/563/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/564/0, 18-inch, Model No. CG–18, vinyl dipped unicellular plastic foam "Ring Buoy", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type IV PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/564/0 dated May 3, 1974 to show change of name of manufacturer.)

Approval No. 160.064/641/0, child medium, Model No. 6656, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/641/0 dated April 23, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/642/0, child medium, Model No. 7209, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/642/0 dated October 9, 1974 to show change of name of manufacturer.)

Approval No. 160.064/643/0, child medium, Model No. SR–XS, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/643/0 dated October 11, 1974 to show change of name of manufacturer.)

Approval No. 160.064/644/0, child medium, Model No. VX75CG–XS, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for AMF Voit, Inc., 3801 S. Harbor Boulevard, Santa Ana, California 92702, effective April 6, 1976. (It supersedes Approval No. 160.064/644/0 dated October 9, 1974 to show change of name of manufacturer.)

Approval No. 160.064/645/0, child medium, Model No. PMS–G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/645/0 dated October 10, 1974 to show change of name of manufacturer.)

Approval No. 160.064/660/0, child medium, Model No. DV–XS, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/660/0 dated October 11, 1974 to show change of name of manufacturer.)

Approval No. 160.064/715/0, child medium, Model No. 6604, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/715/0 dated February 1, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/716/0, adult, Model No. 6604, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, effective March 30, 1976. (It supersedes Approval No. 160.064/716/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Dated: June 4, 1976.

H. G. LYONS,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.76-16855 Filed 6-9-76;8:45 am]

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[CGD 76-099]

## EQUIPMENT, CONSTRUCTION, AND MATERIALS

### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and

materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from March 30, 1976 to April 8, 1976 (List No. 8-76). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

MARINE BUOYANT DEVICE

Approval No. 160.064/717/0, adult, Model No. 6604, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/717/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/718/0, adult, Model No. 6604, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/718/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/719/0, adult, Model No. 6604, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/719/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/720/0, child small, Model No. 6616, cloth covered unicellular plastic foam "Boating Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/720/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/721/0, child small, Model No. 6616, cloth covered unicellular plastic foam "Boating Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/721/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/722/0, child medium, Model No. 6617 or 6621, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/722/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/723/0, adult medium, Model No. 6617 or 6621, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/723/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/724/0, adult large, Model No. 6617 or 6621, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/724/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/725/0, adult X-large, Model No. 6617 or 6621, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/725/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/726/0, adult SX-large, Model No. 6617 or 6621, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/726/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/727/0, adult medium, Model No. 6618 or 6622, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/727/0 dated December 6, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/728/0, adult large, Model No. 6618 or 6622, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/728/0 dated December 6, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/729/0, child medium, Model No. 6627, cloth covered unicellular plastic foam "Marine Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/729/0 dated December 6, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/730/0, adult medium, Model No. 6627, cloth covered unicellular plastic foam "Marine Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 30, 1976. (It supersedes Approval No. 160.064/730/0 dated December 6, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/731/0, adult large, Model No. 6627, cloth covered unicellular plastic foam "Marine Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/731/0 dated December 6, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/732/0, child small, Model No. 6632, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/732/0 dated December 30, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/733/0, child medium, Model No. 6632, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/73/0 dated December 30, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/734/0, adult, Model No. 6632, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type II PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/734/0 dated December 30, 1974 to show change of name of manufacturer and Model No.)

Approval No. 160.064/735/0, adult medium, Model No. 6612, cloth covered unicellular plastic foam "Sportsman's Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/735/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/736/0, adult large, Model No. 6612, cloth covered unicellular plastic foam "Sportsman's Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/736/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/737/0, adult X-large, Model No. 6612, cloth covered unicellular plastic foam "Sportsman's Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/737/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/738/0, adult SX-large, Model No. 6612, cloth covered unicellular plastic foam "Sportsman's Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/738/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/730/0, adult medium, Model No. 8340, cloth covered unicellular plastic foam "Fishing Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/739/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/740/0, adult large, Model No. 8341, cloth covered unicellular plastic foam "Fishing Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/740/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/741/0, adult X-large, Model No. 8342, cloth covered unicellular plastic foam "Fishing Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/741/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/742/0, adult SX-large, Model No. 8343, cloth covered unicellular plastic foam "Fishing Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/742/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/771/0, child medium, Model No. 6656, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/771/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/772/0, adult medium, Model No. 6656, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/772/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/773/0, adult large, Model No. 6656, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/773/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/774/0, adult X-large, Model No. 6656, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, effective March 31, 1976. (It supersedes Approval No. 160.064/774/0 dated February 11, 1975 to show change of name of manufacturer and Model No.)

Approval No. 160.064/802/0, child medium, Model No. 6308, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 173, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin

54114, effective April 1, 1976. (It supersedes Approval No. 160.064/802/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/803/0, adult, Model No. 6309, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 173, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/803/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/804/0, adult, Model No. 6310, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 173, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/804/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/805/0, adult, Model No. 6311, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 173, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/805/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/806/0, adult, Model No. 6312, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 173, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/806/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/807/0, child medium, Model No. 6350, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 173, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/807/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/808/0, adult medium, Model No. 6351, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 173, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/808/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/809/0, adult large, Model No. 6352, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 173, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/809/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/810/0, adult X-large Model No. 6353, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 173, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist/Thompson, Crivitz, Wisconsin 54114, effective April 1, 1976. (It supersedes Approval No. 160.064/810/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/823/0, child small, Model No. 7321, cloth covered unicellular plastic foam "Child's Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/823/0 dated December 30, 1974 to show change of name of manufacturer.)

Approval No. 160.064/824/0, child small, Model No. 7322, cloth covered unicellular plastic foam "Child's Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective April 5, 1976. (It supersedes Approval No. 160.064/824/0 dated December 30, 1974 to show change of name of manufacturer.)

Approval No. 160.064/826/0, child medium, Model No. VSC Youth, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/826/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/827/0, adult, Model No. VSC Medium, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/827/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/828/0, adult, Model No. VSC Large, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/828/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/829/0, adult, Model No. VSC X-L, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/829/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/830/0, adult, Model No. VSC-XX-L, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 110, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Vogue Ski Company, 9416 E. Gidley Avenue, Temple City, California 91780, effective April 2, 1976. (It supersedes Approval No. 160.064/830/0 dated February 14, 1975 to show change of name of manufacturer.)

Approval No. 160.064/831/0, child medium, Model No. SVS, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/831/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/832/0, adult medium, Model No. SVM, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/832/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/833/0, adult large, Model No. SVL, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/833/0 dated February 11, 1975 to show change of name of manufacturer.)

Approval No. 160.064/834/0, adult X-large, Model No. SVXL, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective April 2, 1976. (It supersedes Approval No. 160.064/834/0 dated February 11, 1975 to show change of name of manufacturer.)

Apppoval No. 160.064/874/0, child medium, Model No. CV–SM, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/874/0 dated April 2, 1975 to show change of name of manufacturer.)

Approval No. 160.064/875/0, adult, Model No. CV–MD, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/875/0 dated April 2, 1975 to show change of name of manufacturer.)

Approval No. 160.064/876/0, adult, Model No. CV–LG, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/876/0 dated April 2, 1975 to show change of name of manufacturer.)

Approval No. 160.064/877/0, adult, Model No. CV–XL, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. HQ 114, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for Burbank Ski Company, 1855 Victory Place, Burbank, California 91504, effective April 1, 1976. (It supersedes Approval No. 160.064/877/0 dated April 2, 1975 to show change of name of manufacturer.)

Approval No. 160.064/911/0, child medium, Model 173097, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, a Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/911/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/912/0, adult, Model 173098, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/912/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/913/0, adult, Model 173099, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/913/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/914/0, adult, Model 173100, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/914/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/915/0, adult, Model 173101, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Ilinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/915/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/916/0, child medium, Model 173121, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/916/0 dated October 1, 1975 to show change of name of manufacturer.)

Dated: June 4, 1976.

H. G. LYONS,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.76-16854 Filed 6-9-76;8:45 am]

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[CGD 76-106]

## EQUIPMENT, CONSTRUCTION, AND MATERIALS

### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject

to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from April 14, 1976 to April 29, 1976 (List No. 10–76). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS, FOR MERCHANT VESSELS

Approval No. 160.011/47/0, Ammonia Gas Mask with Cleartone Speaking Diaphragm and Ultraview Facepiece, MSA dwg. Nos. B457081, A96680, C993866, and Bureau of Mines Approval No. 14F–58, manufactured by Mine Safety Appliance Company, 201 North Braddock Avenue, Pittsburgh, Pennsylvania 15208, effective April 15, 1976. (It is an extension of Approval No. 160.011/47/0 dated June 29, 1971.)

Approval No. 160.011/48/0, MSA Gas Mask Type N with Cleartone Speaking Diaphragm and Ultraview Model SW Facepiece, MSA dwg. Nos. B457076, B994069, A96680 and Bureau of Mines Approval No. 14F–66A, manufactured by Mine Safety Applicances Company, 201 North Braddock Avenue, Pittsburgh, Pennsylvania 15208, effective April 15, 1976. (It is an extension of Approval No. 160.011/48/0 dated June 29, 1971.)

LIFEBOAT WINCHES FOR MERCHANT VESSELS

Approval No. 160.015/111/0, Model LS–1711 E survival capsule launching winch; approval listed to mechanical components only, and for a maximum working load of 17,000 lbs. on a single-partfall; identified by assembly drawing 57414, revision K dated April 15, 1976, and drawing list 41349–03–200 dated November 5, 1974, approved for on nonself-propelled drilling rigs, artificial islands, and fixed structures for the Whittaker Survival Capsule, manufactured by Lake Shore, Inc., Iron Mountain, Michigan 49801, effective April 29, 1976.

MIRRORS, EMERGENCY SIGNALING

Approval No. 160.020/5/1, Model CG–2, emergency signaling mirror, 4" x 5" reflex type, identified by mirror and packing drawing No. CG–2 dated August 15, 1966, manufactured by Revere Glass Company, 583 Beach Street, Revere, Massachusetts 02151, effective April 15, 1976. (It is an extension of Approval No. 160.020/5/1 dated June 8, 1971.)

DAVITS FOR MERCHANT VESSELS

Approval No. 160.032/205/0, Type 20–20 (MK II) mechanical davit, steel straight boom and sheath screw; approved for maximum working load of 5,800 lbs. per set (2,900 lbs. per arm); identified by general assembly drawing D1–F–298, revision B dated March 26, 1976 and drawing list, revision A dated March 29, 1976, manufactured by Marine Safety Equipment Corporation, Foot of Wyckoff Road, Farmingdale, New Jersey 07727, effective April 23, 1976.

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

Approval No. 160.048/144/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048–4(c)(1)(i), Type IV PFD, manufactured by Miltco Products Corporation, 139 Emerson Place, Brooklyn, New York 11205, effective April 15, 1976. (It is an extension of Approval No. 160.048/144/0 dated May 26, 1971.)

Approval No. 160.048/260/0, special approval for a rectangular buoyant cushion, 13¼" x 17" x 2", manufactured in accordance with U.S.C.G. Specification Subpart 160.048 and UL/MD report file No. MQ 81, Type IV PFD, manufactured by Crawford Manufacturing Company, Inc., 3rd & Decatur Streets, Richmond, Virginia 23212, effective April 15, 1976. (It is an extension of Approval No. 160.048/260/0 dated June 3, 1971.)

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/10/1, Model 211–VF–17.5 unicellular plastic foam work vest, dwg. list No. 60F736 dated August 15, 1960 and Bill of Materials dated March 12, 1971, Type V PFD, manufactured by Gentex Corporation, Carbondale, Pennsylvania 18407, effective April 15, 1976. (It is an extension of Approval No. 160.053/10/1 dated May 3, 1971.)

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD FOR MERCHANT VESSELS

Approval No. 160.055/58/0, Model 62, adult vinyl dip coated unicellular plastic foam life preserver, U.S.C.G. Specification Subpart 160.055, Dwg. No. 160.055–1A (sheet 1) and COMDT (MMT–3) letter dated August 29, 1966, Type I PFD, manufactured by Crawford Manufacturing Company, Inc., 3rd & Decatur Streets, Richmond, Virginia 23212, effective April 15, 1976. (It is an extension of Approval No. 160.055/58/0 dated June 3, 1971.)

Approval No. 160.055/59/0, Model 66, child vinyl dip coated unicellular plastic foam life preserver, U.S.C.G. Specification Subpart 160.055, Dwg. No. 160.055–1A (sheet 2) and COMDT (MMT–3) letter dated August 29, 1966, Type I PFD, manufactured by Crawford Manufacturing Company, Inc., 3rd & Decatur Streets, Richmond, Virginia 23212, effective April 15, 1976. (It is an extension of Approval No. 160.055/59/0 dated June 3, 1971.)

TELEPHONE SYSTEMS, SOUND-POWERED

Approval No. 161.005/64/0, sound powered telephone station, selective ringing, common talking, 19-station maximum, internal heater, bulkhead mounting, waterproof, external separately mounted bell, dwg. No. 91–01, Alt. 0, Model SWT–H, manufactured by Hose-McCann Telephone Company, Inc., 524 W. 23rd Street, New York, New York 10011, effective April 14, 1976. (It is an extension of Approval No. 161.005/64/0 dated May 10, 1971.)

NOZZLES, FIREHOSE, COMBINATION SOLID STREAM AND WATER SPRAY (1½-INCH AND 2½-INCH) FOR MERCHANT VESSELS

Approval No. 162.027/2/1, Rockwood 1½" SG70 combination solid stream and water spray fire hose nozzle, 1½" Type TCG high-velocity head, and either 10' −90° Type CGC, 10' −90° CGG, 4' −60° Type CGC, or 4' −60° Type CGG applicator with Type T–11 low-velocity head; dwg. Nos. S–4787 dated February 9, 1955; S–4352, Rev. B dated June 21, 1956; S–6742 dated October 23, 1959; S–6748 dated October 23, 1959; S–6740 dated October 23, 1959; S–6744 dated October 23, 1959; and S–6738 dated October 19, 1959, applicators were formerly Type CG; low-velocity head was formerly Type T–11A; due to orifice sizes no special self-cleaning strainer is required, manufactured by Rockwood, 80 Second Street, South Portland, Maine 04106, effective April 21, 1976. (It reinstates and supersedes Approval No. 162.027/2/1 terminated February 19, 1976.)

Approval No. 162.027/3/1, Rockwood 2½" SG70 combination solid stream and water spray fire hose nozzle, 2½" Type TCG high-velocity head, and 12' −90° Type CGG or Type CGG applicator with Type T–10 low-velocity head; dwg. Nos. S–4992 dated September 8, 1955; S–4993 dated September 8, 1955; S–6741 dated October 23, 1959; S–6743 dated October 20, 1959; and S–6733 dated October 16, 1959, applicators were formerly Type CG; low-velocity head was formerly Type T–10A, manufactured by Rockwood, 80 Second Street, South Portland, Maine 04106, effective April 21, 1976. (It reinstates and supersedes Approval No. 162.027/3/1 terminated February 19, 1976.)

Approval No. 162.027/8/0, Rockwood 1½" SG71 combination solid stream and water spray fire hose nozzle, 1½" Type TCG high-velocity head, and either 10' −90° Type CGC, 10' −90° CGG, 4' −60° Type CGC, or 4' −60° Type CGG applicator with Type T–11 low-velocity head; dwg. Nos. 10–07832, Rev. B dated June 27, 1966; S–4352, Rev. B dated June 21, 1956;

S–6742 dated October 23, 1959; S–6748 dwated October 23, 189vi
dated October 23, 1959; S–6740 dated October 23, 1959; S–6744 dated October 23, 1959; and S–6738 dated October 19, 1959, applicators were formerly Type CG; low-velocity head was formerly Type T–11A; due to orifice sizes no special self-cleaning strainer is required, manufactured by Rockwood, 80 Second Street, South Portland, Maine 04106, effective April 21, 1976. (It reinstates and supersedes Approval No. 162.027/8/0 terminated February 19, 1976.)

Approval No. 162.027/9/0, 1-½ inch combination solid stream and water spray fire hose nozzle, Style 2032, Bill of Material dated January 16, 1970, dwg. No. 1595 dated June 1, 1970, Style HV 15 high-velocity head, and either Style 415 4′ —60° applicator or Style 1015 10′ —90° applicator with Style LV15 low-velocity head, due to orifice sizes, no special self-cleaning strainer is required, the 4′ —60° applicator is intended for nozzle installations in propulsion machinery spaces containing oil-fired boilers, internal combustion machinery or oil fuel units, manufactured by Akron Brass Manufacturing Company, Inc., Wooster, Ohio 44691, effective April 21, 1976. (It is an extension of Approval No. 162.027/9/0 dated June 2, 1971.)

Approval No. 162.027/10/0, 2-½ inch Style 2046 combination solid stream and water spray fire hose nozzle ball type, Bill of Material dated January 19, 1970, dwg. No. 1596 dated June 1, 1970, Style HV 25 high-velocity head, and Style 1225 25′ —90° applicator with LV 25 low-velocity head, due to orifice sizes, no special self-cleaning strainer is required, manufactured by Akron Brass Manufacturing Company, Inc., Wooster, Ohio 44691, effective April 21, 1976. (It is an extension of Approval No. 162.027/10/0 dated June 2, 1971.)

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

Approval No. 164.007/40/0, "Thermafiber Felt" mineral wool type structural insulation identical to that described in National Bureau of Standards Test Report FR 3812 dated July 12, 1972, approved without any other insulating material to meet Class A–60 requirements in a 3 inch thickness with a density of 7 pounds per cubic foot, manufactured by United States Gypsum Company, 1000 East Northwest Highway, Des Plaines, Illinois 60016, plant locations: Corsicana, Texas; South Plainfield, New Jersey; Torrance, California; Wabash, Indiana; Tacoma, Washington, Birmingham, Alabama, effective April 14, 1976. (It supersedes Approval No. 164.007/40/0 dated January 23, 1975 to show additional plant location.)

Approval No. 164.007/46/0, "Thermafiber Felt" mineral wool type structural insulation identical to that described in National Bureau of Standards Test Report 3812 dated July 12, 1972, approved without any other insulating material to meet Class A–30 requirements in a 2 inch thickness with a density of 6 pounds per cubic foot, this material may not be used as a component of Class A–60 construction, manufactured by United States Gypsum Company, 1000 East Northwest Highway, Des Plaines, Illinois 60016, plant locations: Corsicana, Texas; South Plainfield, New Jersey; Torrance, California; Wabash, Indiana; Tacoma, Washington; Birmingham, Alabama, effective April 14, 1976. (It supersedes Approval No. 164.007/46/0 dated January 23, 1975 to show additional plant location.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/54/0, "Thermafiber Glass Fiber", fibrous insulation type combustible material identical to that described in National Bureau of Standards Report No. TG10210–2028:FP3461 dated August 1, 1958, approved in a density of 3 pounds per cubic foot, manufactured by United States Gypsum Company, 1000 East Northwest Highway, Des Plaines, Illinois 60016, plant locations: Corsicana, Texas; South Plainfield, New Jersey; Torrance, California; Wabash, Indiana; Tacoma, Washington; Birmingham, Alabama, effective April 14, 1976. (It supersedes Approval No. 164.009/54/0 dated July 18, 1975 to show plant locations.)

Approval No. 164.009/124/0, "Thermafiber" mineral wool panels identical to that described in National Bureau of Standards Test Report No. TG10230:FR-3644 dated December 16, 1964 and U.S.C.G. letter dated March 14, 1969, approved in density of 4 through 8 pounds per cubic foot, manufactured by United States Gypsum Company, 1000 East Northwest Highway, Des Plaines, Illinois 60016, plant locations: Corsicana, Texas; South Plainfield, New Jersey; Torrance, California; Wabash, Indiana; Tacoma, Washington, Birmingham, Alabama, effective April 14, 1976. (It supersedes Approval No. 164.009/124/0 dated January 8, 1974 to show additional plant locations and change of address of manufacturer.)

Approval No. 164.009/143/0, "CG Coating CP 61" composition type coating incombustible material, identical to that referred to in National Bureau of Standards Test Report FR 3759 dated May 24, 1971 and Childers Products Company letter dated January 5, 1971, manufactured by Childers Products Company, P.O. Box 505, Bristol, Pennsylvania 19007, plant located Bristol, Pennsylvania, effective April 21, 1976. (It is an extension of Approval No. 164–009/143/0 dated June 15, 1971.)

Approval No. 164.009/145/0, "CG Adhesive CP 92" incombustible material, identical to that referred to in National Bureau of Standards Test Report FR 3759 dated May 24, 1971 and Childers Products Company letter dated January 5, 1971, manufactured by Childers Products Company, P.O. Box 505, Bristol, Pennsylvania 19007, plant located Bristol, Pennsylvania, effective April 21, 1976. (It is an extension of Approval No. 164.-009/145/0 dated June 15, 1971.)

Approval No. 164.009/169/0, U.S. Gypsum's "Thermafiber Number 10 Granulated Wood" identical to that described in U.S. Gypsum's letter dated May 10, 1973, manufactured by United States Gypsum Company, 1000 East Northwest Highway, Des Plaines, Illinois 60016, plant locations: Corsicana, Texas; South Plainfield, New Jersey; Torrence, California; Wabash, Indiana; Tacoma, Washington, Birmingham, Alabama, effective April 14, 1976. (It supersedes Approval No. 164.009/169/0 dated April 16, 1975 to show additional plant location.)

Dated: June 4, 1976.

H. G. LYONS,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.76–16856 Filed 6–9–76;8:45 am]

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[CGD 76–107]

## EQUIPMENT, CONSTRUCTION, AND MATERIALS

### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from March 29, 1976 to April 13, 1976 (List No. 9–76). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

MARINE BUOYANT DEVICE

Approval No. 160.064/917/0, adult, Model 173123, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Acces-

sories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/917/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/918/0, adult, Model No. 173125, vinyl dipped unicelluar plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/918/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/919/0, adult, Model 173127, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/919/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/920/0, adult Model 173129, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/920/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/921/0, adult, Model 173131, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/921/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/922/0, child small, Model 173067, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III, PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/922/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/923/0, child small, Model 173068, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/923/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/924/0, child medium, Model 173069, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 8, 1976. (It supersedes Approval No. 160.064/924/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/925/0, adult, Model 173070, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/925/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/926/0, adult, Model 173071, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/926/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/927/0, adult, Model 173072, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/927/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/928/0, adult, Model 173073, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/928/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/929/0, adult, Model 173074, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/929/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/930/0, adult, Model 173075, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/930/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/931/0, adult Model 173093, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/931/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/932/0, adult, Model 173094, cloth covered unicellular

plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/932/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/933/0, adult, Model 173095, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/933/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/934/0, adult, Model 173096, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/934/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/935/0, adult, Model 173089, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts I Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/935/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/936/0, adult, Model 173090, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/936/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/937/0, adult, Model 173091, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/937/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/938/0, adult, "Model 17302, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 9, 1976. (It supersedes Approval No. 160.064/938/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/939/0, child medium, Model 173137, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/939/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/940/0, adult, Model 173139, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/940/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/941/0, adult Model 173141, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/941/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/942/0, adult, Model 173143, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/942/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/943/0, adult, Model 173145, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/943/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/944/0, child medium, Model 173197, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/944/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/945/0, adult, Model 173198, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufacturer by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/945/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/946/0, adult, Model 173199, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Ac-

cessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/946/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/947/0, adult, Model 173200, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/947/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/948/0, adult, Model 173201, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/948/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/949/0, adult, Model 173202, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/949/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/950/0, child small, Model 173167, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/950/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/951/0, child small, Model 173168, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/951/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/552/0, child medium, Model 173269, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 12, 1976. (It supersedes Approval No. 160.064/952/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/953/0, adult, Model 173170, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/953/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/954/0, adult, Model 173171, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/954/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/955/0, adult, Model 173172, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/955/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/956/0, adult, Model 173173, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Aproval No. 160.064/956/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/957/0, adult, Model 173174, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/957/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/958/0, adult, Model 173175, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/958/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/959/0, adult, Model 173193, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/959/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/960/0, adult, Model 173194, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/960/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/961/0, adult, Model 173195, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/961/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/962/0, adult, Model 173196, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/962/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/963/0, adult, Model 173189, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/963/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/964/0, adult, Model 173190, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/964/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/965/0, adult, Model 173191, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corportaion, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/965/0 dated October 1, 1975 to show change of name of manufacturer.)

Approval No. 160.064/966/0, adult, Model 173192, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, California 92121, formerly Cut 'N' Jump Ski Corporation, for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective April 13, 1976. (It supersedes Approval No. 160.064/966/0 dated October 1, 1975 to show change of name of manufacturer.)

SAFETY VALVES (POWER BOILERS)

Approval No. 162.001/221/0, series VM–110, cast carbon steel body spring loaded nozzle type safety valve, maximum pressure 120 p.s.i., maximum temperature 650° F., approved for sizes 1½", 2", 2½", 3", and 4", manufactured by J. E. Lonergan Company, Red Lion Road West of Verree Road, P.O. Box 6167, Philadelphia, Pennsylvania 19115, effective March 29, 1976. (It is an extension of Approval No. 162.001/221/0 dated February 19, 1971.)

Approval No. 162.001/222/0, series VM–120, cast carbon steel body spring loaded nozzle type safety valve maximum pressure 92 p.s.i., maximum temperature 800° F., approved for sizes 1½", 2", 2½", 3", and 4", manufactured by J. E. Lonergan Company, Red Lion Road West of Verree Road, P.O. Box 6167, Philadelphia, Pennsylvania 19115, effective March 29, 1976. (It is an extension of Approval No. 162.001/222/0 dated February 19, 1971.)

Approval No. 162.001/223/0, series VM–130, cast carbon steel body spring loaded nozzle type safety valve, maximum pressure 70 p.s.i., maximum temperature 900° F., approved for sizes 1½", 2", 2½", 3", and 4", manufactured by J. E. Lonergan Company, Red Lion Road West of Verree Road, P.O. Box 6167, Philadelphia, Pennsylvania 19115, effective March 29, 1976. (It is an extension of Approval No. 162.001/223/0 dated February 19, 1971.)

SAFETY RELIEF VALVES, LIQUEFIED

Approval No. 162.018/31/1, series W–100 and W–300 safety relief valves for liquefied petroleum gas and anhydrous ammonia service, full nozzle type metal-to-metal seat, subject to pressure-temperature limitations on J. E. Lonergan Company drawing No. A–1681 dated January 23, 1962, drawing A–1681, Note 4 only ASTM A–216 Grade WCB will be used for bonnet material, Note 5 is not applicable, manufactured by J. E. Lonergan Company, Red Lion Road West of Verree Road, P.O. Box 6167, Philadelphia, Pennsylvania 19115, effective March 29, 1976. (It is an extension of Approval No. 162.018/31/1 dated February 17, 1971 and "Remarks" information added.)

Dated: June 4, 1976.

H. G. LYONS,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.76–16857 Filed 6–9–76;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### CERTIFICATE OF APPORTIONMENTS

### Apportionment of Transition Quarter Non-Interstate and Forest Highways

CERTIFICATE OF APPORTIONMENT OF THE SUM OF $1,637,390,000 FOR CERTAIN PROJECTS AUTHORIZED BY TITLE 23 UNITED STATES CODE, AUTHORIZED TO BE APPROPRIATED FOR THE TRANSITION QUARTER ENDING SEPTEMBER 30, 1976.

To the Secretary of the Treasury of the United States and the State Highway Departments:

Pursuant to section 104 of the Federal-Aid Highway Act of 1976, approved May 5, 1976, P.L. 94–280 (90 Stat. 425) and the delegation of authority from the Secretary of Transportation to the Federal Highway Administrator, DOT Order 1100.23, I hereby certify—

First. That I have determined that the full sum of $1,637,390,000 authorized to be appropriated, out of the Highway Trust Fund, for the transition quarter ending September 30, 1976, by section 104(a) of the Federal-Aid Highway Act of 1976 for those projects authorized by title 23 of the United States Code, the approval of which creates a contractual obligation of the United States for payment out of the Highway Trust Fund of the Federal share of such projects except those authorized by section 142 of such title, and those on the Interstate System (other than as permitted in section 104 (b) of the Federal-Aid Highway Act of 1976) shall be apportioned among the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

Second. That I have computed the apportionments among the several States, the District of Columbia and the Commonwealth of Puerto Rico of the said sum authorized to be appropriated in the manner provided by law and in accordance with the formula set forth in section 104(a) (1) and (2) of the Federal-Aid Highway Act of 1976.

Third. That the sums which are hereby apportioned and made available to each State, the District of Columbia, and the Commonwealth of Puerto Rico, effective May 5, 1976, are respectively as follows:

U.S. DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION

**Apportionment of funds authorized by Sec. 104(A) of the Federal-Aid Highway Act of 1976 for the transition quarter ending Sept. 30, 1976**

| State: | Amount |
|---|---|
| Alabama | $32,681,960 |
| Alaska | 54,708,876 |
| Arizona | 19,534,341 |
| Arkansas | 23,204,779 |
| California | 97,151,951 |
| Colorado | 23,539,345 |
| Connecticut | 16,804,052 |
| Delaware | 6,655,256 |
| Florida | 41,972,094 |
| Georgia | 41,936,638 |
| Hawaii | 7,360,656 |
| Idaho | 14,007,869 |
| Illinois | 65,326,967 |
| Indiana | 40,043,030 |
| Iowa | 33,056,890 |
| Kansas | 29,606,851 |
| Kentucky | 29,913,778 |
| Louisiana | 28,689,438 |
| Maine | 11,764,232 |
| Maryland | 22,433,121 |
| Massachusetts | 26,351,617 |
| Michigan | 59,077,502 |
| Minnesota | 39,402,490 |
| Mississippi | 26,044,017 |
| Missouri | 42,790,083 |
| Montana | 20,646,650 |
| Nebraska | 22,348,309 |
| Nevada | 12,643,733 |
| New Hampshire | 7,258,151 |
| New Jersey | 30,234,733 |
| New Mexico | 17,957,282 |
| New York | 90,889,451 |
| North Carolina | 47,164,838 |
| North Dakota | 15,494,398 |
| Ohio | 64,712,454 |
| Oklahoma | 28,000,333 |
| Oregon | 22,838,998 |
| Pennsylvania | 75,345,336 |
| Rhode Island | 7,932,490 |
| South Carolina | 24,451,154 |
| South Dakota | 16,711,721 |
| Tennessee | 35,679,378 |
| Texas | 92,995,056 |
| Utah | 13,445,417 |
| Vermont | 6,326,512 |
| Virginia | 35,819,150 |
| Washington | 27,570,915 |
| West Virginia | 17,315,320 |
| Wisconsin | 38,710,730 |
| Wyoming | 12,090,572 |
| District of Columbia | 2,405,862 |
| Puerto Rico | 16,343,224 |
| Total | 1,637,390,000 |

CERTIFICATE OF APPORTIONMENT OF THE SUM OF $8,250,000 AUTHORIZED TO BE APPROPRIATED FOR FOREST HIGHWAYS BY THE FEDERAL-AID HIGHWAY ACT OF 1976 FOR THE TRANSITION QUARTER ENDING SEPTEMBER 30, 1976

Pursuant to subsection (a) of section 202 of title 23, United States Code, and in accordance with the provisions of section 104(c) of the Federal-Aid Highway Act of 1976, approved May 5, 1976, P.L. 94-280, 90 Stat. 425, and the delegation of authority from the Secretary of Transportation to the Federal Highway Administrator, DOT Order 1100.23, I hereby certify—

First. That I have apportioned, effective May 5, 1976, the sum of $8,250,000 authorized to be appropriated for Forests highways for the transition quarter ending September 30, 1976, by section 104(c) of the Federal-Aid Highway Act of 1976, in the same percentage as the amounts apportioned for expenditure in each State and the Commonwealth of Puerto Rico from funds authorized for Forest highways for the fiscal year ending June 30, 1958, adjusted to (1) eliminate the 0.003,243,547 percent for the State of Iowa, because of the conveyance of all National Forest Lands in Iowa to the State by deed executed May 26, 1964, and (2) redistribute the above percentage formerly apportioned to the State of Iowa for the other participating States on a proportional basis.

Second. That the total of the sums which I have thus apportioned for expenditures in the several States and the Commonwealth of Puerto Rico for Forest highways are, respectively, as follows:

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

Apportionment of Forest Highway Funds Authorized by sec. 104(c) of the Federal-Aid Highway Act of 1976 for the Transition Quarter Ending Sept. 30, 1976

| State: | Amount |
|---|---|
| Alabama | $23,625 |
| Alaska | 719,140 |
| Arizona | 464,379 |
| Arkansas | 112,155 |
| California | 1,181,541 |
| Colorado | 592,478 |
| Florida | 47,926 |
| Georgia | 29,066 |
| Idaho | 839,998 |
| Illinois | 9,509 |
| Indiana | 5,530 |
| Kentucky | 16,959 |
| Louisiana | 19,037 |
| Maine | 3,090 |
| Michigan | 88,530 |
| Minnesota | 114,095 |
| Mississippi | 38,919 |
| Missouri | 42,166 |
| Montana | 657,641 |
| Nebraska | 7,701 |
| Nevada | 147,997 |
| New Hampshire | 44,087 |
| New Mexico | 330,593 |
| North Carolina | 50,831 |
| North Dakota | 29 |
| Ohio | 4,518 |
| Oklahoma | 5,690 |
| Oregon | 1,136,516 |
| Pennsylvania | 22,019 |
| South Carolina | 27,046 |
| South Dakota | 64,636 |
| Tennessee | 27,656 |
| Texas | 26,116 |
| Utah | 273,987 |
| Vermont | 14,761 |
| Virginia | 53,649 |
| Washington | 573,422 |
| West Virginia | 32,558 |
| Wisconsin | 46,138 |
| Wyoming | 351,939 |
| Puerto Rico | 2,327 |
| Total | 8,250,000 |

Done at the City of Washington this 5th day of May 1976.

NORBERT T. TIEMANN,
*Federal Highway Administrator.*

[FR Doc.76-16826 Filed 6-9-76;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[FRA Waiver Petition Docket No. LI-76-3]

### BOSTON AND MAINE CORP.

### Waiver of Locomotive Inspection and Safety Appliance Standards

The Boston and Maine Corporation (B&M) has petitioned the Federal Railroad Administration (FRA) for a temporary waiver of compliance with certain provisions of the Locomotive Inspection regulations (49 CFR Part 230) and a single provision of the Safety Appliance Standards (49 CFR Part 231). B&M has requested the waiver in order to operate a Fiat Rail Diesel Car (Fiat 920) in a performance test for the Massachusetts Bay Transportation Authority. B&M intends to use this car on its Boston to Reading line, in both revenue and non-revenue service.

The waiver would apply to the following provisions of the Locomotive Inspection Regulations: § 230.201(d), which requires slipping or sliding wheel alarms (The Fiat 920 is equipped with a tachometer for each power wheel. These tachometers are visible to the engineer.); § 230.231(a), which requires headlights to be visible at a distance of 800 feet (B&M notes that one objective of the road test would be to determine whether the headlight is in compliance.); § 230.231(c), which requires dimmers (The top headlight is not equipped with a dimmer, however, there are two additional automotive type headlights which are equipped with dimmer switches); § 230.232, which requires suitable steps for servicing headlights (This unit is not equipped with steps for servicing headlights.); and, § 230.235, which requires locomotives to be equipped with a sanding apparatus (The Fiat 920 is not equipped with a sander).

The solitary provision of the Railroad Safety Appliance Standards, to which the waiver would apply, is § 231.14(f)(4)(iii), which prescribes standards for vertical handholds required on passenger-train cars that are not equipped with end platforms.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if requested by an interested person prior to June 21, 1976. All communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number LI-76-3) and shall be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before July 21, 1976, will be considered by the FRA before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. §§ 12, 28; 49 U.S.C. § 1655(e); and, Section 1.49(c) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(c).

Issued in Washington, D.C. on June 3, 1976.

EDWARD F. CONWAY, Jr.,
*Acting Assistant Chief Counsel, Safety Regulation Division, Federal Railroad Administration.*

[FR Doc.76-16770 Filed 6-9-76;8:45 am]

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[FRA Waiver Petition Number PB-75-1]

## NORFOLK AND WESTERN RAILWAY CO.

### Petition for Waiver of Power Brake Requirements

Notice is hereby given that the Norfolk and Western Railway Company has petitioned the Federal Railroad Administration (FRA) for a temporary waiver of compliance from the testing and repair requirements of 49 CFR 232.17(a) (1) and (b). The temporary waiver is requested in order to conduct a limited study and evaluation of the service life reliability of specific types of power brake equipment.

The current provisions for the testing and repair of freight car brake equipment have been premised on test results obtained through Association of American Railroad sponsored and supervised test programs. In generalized terms those tests obtained evidence of valve component condition by sampling inspections after specific period of time. On the basis of the evidence produced by this inspection sampling technique intervals were established for the cleaning, oiling, testing and stenciling (COT&S) of freight car brake equipment. The previous testing did not provide useful records of interim failures or performance malfunctions.

The N&W proposes to conduct a test program which would provide information concerning the failure and other performance malfunctions of a variety of specific types of power brake equipment. Petitioner proposes to employ a fleet of approximately 54,000 open top hopper cars for this test program. N&W would utilize an existing computerized history file which it maintains for each car in this fleet of hopper cars. Approximately thirty-one (31) percent of this fleet is now equipped with ABD type brakes which currently are given COT&S attention at periods which do not exceed one hundred twenty-months (120 month COT&S), forty-two (42) percent are equipped with AB type brakes (48 month COT&S), twenty-two (22) percent are equipped with ABD–1 type brakes (48 months COT&S) and five (5) percent are equipped with ABC–1 type brakes (48 month COT&S). The test program would, therefore, produce a data base to evaluate the service life potential for all types of freight car brake equipment and assist in evaluating the safe time intervals for the performance of COT&S work.

Petitioner notes that this car fleet is primarily used for hauling coal and as consequence the cars would be exposed to coal dust and the extreme heat used in thawing at discharge plant operations in addition to all of the normal environmental conditions to which the general freight car fleet is exposed. Petitioner indicates that this fleet is operated under relatively controlled conditions since the cars are returned to the N&W when empty.

During the period of the test program, N&W proposes to have the complete COT&S of the air brake equipment performed only when any portion of that equipment has been broken, damaged by fire, submerged in water, or in the event that a car has failed to pass an In Date Single Car Code of Tests. Petitioner notes that the cars in this fleet average being on a repair track two or three times per year and are generally subjected to the In Date Single Car Code of Tests when the cars are placed on a repair track. Consequently the cars would normally receive a minimum of two tests per year. In the event that a car fails an In Date Single Car Code of Tests, the car will be given a documented inspection that details the condition of the brake cylinder, dirt collector, pipe bracket strainer as well as the entire system. The valvular portions of the brake will be removed, placed in a protective container and shipped to petitioner's facilities at Norfolk, Virginia. A detailed inspection and testing of these components will be conducted at that location. The data derived would be recorded and periodic reports will be provided to interested parties.

Petitioner states that safety would not be adversely affected by conducting a test program in this manner. N&W has not proposed a specific period for the duration of this program.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. All communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number PB–75–1) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before July 15, 1976, will be considered by the FRA before final action is taken. Comments received after that date will be considered so far as practical. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing at 10:00 a.m., June 30, 1976, in Room 6332, Nassif Building, 400 Seventh Street, SW., Washington, D.C. That hearing will be an informal one, not a judicial or evidencing type of hearing. There will be no cross examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing.

Interested persons will then have the opportunity to present their oral statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, before June 25, 1976, stating the amount of time required for his initial statement.

This notice is issued under the authority of 45 U.S.C. 9; and 49 U.S.C. 1655(e).

Issued in Washington, D.C. on June 4, 1976.

EDWARD F. CONWAY, Jr.,
*Acting Assistant Chief Counsel, Safety Regulation Division, Federal Railroad Administration.*

[FR Doc.76-16772 Filed 6-9-76;8:45 am]

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[FRA Waiver Petition Docket No. RSFC–74–6; Notice 3]

## NORFOLK AND WESTERN RAILWAY CO.

### Waiver of Periodic Lubrication

On October 22, 1974, the Federal Railroad Administration (FRA) published a notice in the FEDERAL REGISTER (39 FR 37526) that the Norfolk and Western Railway Company (N&W) has petitioned the FRA for permission to continue a test program in which 13,000 low mileage low top hopper cars would be operated for a period not to exceed eight years without compliance with the present FRA periodic lubrication requirements (49 CFR 215.99).

The N&W subsequently requested to amend the aforementioned petition, to include an additional 2,000 hopper cars, which were also to be subject to the same test conditions previously described. Notice of this request was published in the FEDERAL REGISTER on May 9, 1975 (40 FR 20337).

On September 16, 1975, the N&W requested to amend the petition to extend the lubrication test interval from eight years to ten years. This extension was to apply to all 15,000 cars.

The Railroad Safety Board of the FRA, after reviewing all of the information submitted in connection with these proceedings, granted the requested waivers and the extension. In reaching these decisions, the Railroad Safety Board specifically found that granting the waiver was in the public interest and consistent with railroad safety.

The N&W has recently requested permission to operate the remainder of its fleet of open top hopper cars that are equipped with roller bearing trucks for intervals which would not exceed ten years between periodic lubrications. The group of cars under consideration would

not be added to the present set of cars being utilized for test purposes. Instead it is proposed to provide an exemption for this group of cars on the strength of the data produced by the current test.

The group of cars under consideration consists of approximately 15,397 open top hopper cars equipped with roller bearing trucks. The cars bear N&W reporting marks in the following series: 3000–4999, 9250–9999, 30000–30999, 66000–66999, 67000–69499, 74000–76591, 92000–94999, 117000–119999, 133000–133099, 166000–169499, 174000–175999, 230000–230999, and 234250–234499.

Petitioner notes that the Association of American Railroads and the Roller Bearing Manufacturer's Engineers Committee, which is composed of technical representatives from all freight car roller bearing manufacturers, have endorsed the 10 year extended lubrication program of the N&W. The N&W also cites as justification for granting the exemption the fact that N&W maintains a computerized history file on each of the cars in the fleet which can provide information on single cars, groups of cars as well as the entire fleet.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if requested by any interested person prior to June 21, 1976. All communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number RSFC–74–6; Notice 3) and shall be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before July 15, 1976, will be considered by the FRA before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on June 4, 1976.

EDWARD F. CONWAY, Jr.,
*Acting Assistant Chief Counsel, Safety Regulation Division, Federal Railroad Administration.*

[FR Doc.76–16773 Filed 6–9–76;8:45 am]

## FEDERAL POWER COMMISSION

### CITIES SERVICE GAS CO.

[Docket No. RP75–27]

**Notice of Certification of Proposed Settlement Agreement**

JUNE 8, 1976.

Take notice that on May 17, 1976, pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure, a stipulation and settlement agreement received in evidence by Presiding Administrative Law Judge Sherman P. Kimball on May 10, 1976, was certified, together with the record in this proceeding, to the Commission for appropriate action.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 11, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76–17038 Filed 6–9–76;8:45 am]

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[Docket No. RP72–64]

### TEXAS GAS TRANSMISSION CORP.

**Notice of Availability of Final Environmental Impact Statement**

Notice is hereby given in the above Docket that on May 28, 1976, the Staff's Environmental Impact Statement was made available. This Statement deals with the environmental impact of alternative permanent curtailment plans proposed in the above-docketed proceeding across the Texas Gas Transmission Corporation system.

This Statement has been circulated to Federal, State and local agencies, and has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 and at its Regional Offices located at Room 500, 730 Peachtree Building, Atlanta, Georgia 30308; Thirty-first Floor, Federal Building, 230 S. Dearborn Street, Room 3140B, Chicago, Illinois 60604; and 819 Taylor Street, Fort Worth, Texas 75102.

Copies are available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76–17039 Filed 6–9–76;8:45 am]

## FEDERAL RESERVE SYSTEM

### FIRST YUKON BANKSHARES, INC.

**Formation of Bank Holding Company**

First Yukon Bankshares, Inc., Oklahoma City, Oklahoma, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 84.77 per cent of the voting shares of The First National Bank of Yukon, Yukon, Oklahoma. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 30, 1976.

Board of Governors of the Federal Reserve System, June 1, 1976.

J. P. GARBARINI,
*Assistant Secretary of the Board.*

[FR Doc.76–16888 Filed 6–9–76;8:45 am]

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### UNION TRUST BANCORP

**Proposed Acquisition of Fidelity Finance Company**

Union Trust Bancorp, Baltimore, Maryland, has applied, pursuant to Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the assets of Fidelity Finance Company, Elkins, West Virginia, through Applicant's subsidiary Landmark Financial Services, Inc., Silver Spring, Maryland. Notice of the application was published on May 7, 1976, in The Inter-Mountain, a newspaper circulated in Elkins, West Virginia.

Applicant states that the proposed subsidiary would engage in the activities of making installment loans for personal, family or household purposes; purchasing sales financing contracts, executed in connection with the sale of personal, family or household goods or services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; and acting as agent in the sale of insurance protecting collateral held against its extensions of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increase competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 30, 1976.

Board of Governors of the Federal Reserve System, June 2, 1976.

J. P. GARBARINI,
*Assistant Secretary of the Board.*

[FR Doc.76-16889 Filed 6-9-76;8:45 am]

## NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 76-24]

### ACCIDENT REPORT; RECOMMENDATIONS AND RESPONSE

#### Availability and Receipt

*Highway Accident Report.*—The National Transportation Safety Board announces the release of its report on the investigation of the collapse on February 23, 1975, of the Yadkin River Bridge near Siloam, North Carolina, after an automobile crashed into one of the bridge's vital structural members. After the impact, the bridge collapsed; both the automobile and the bridge fell into the river. Six more vehicles vaulted into the collapse zone within a 17-minute period. Four persons were killed and 16 were injured. The Safety Board determined that the probable cause of the bridge collapse was the penetration of the timber railing by the vehicle and its subsequent impact with and crushing of a vital structural member of the bridge truss. The timber railing was not adequate to sustain impact at posted speeds.

The report, No. NTSB-HAR-76-3, was released June 4. In a letter issued May 11, 1976, the Secretary of Transportation, the Safety Board presented five "priority followup" recommendations to the Federal Highway Administration. The recommendations, Nos. H-76-11 through H-76-15, are reproduced in the report. See also 41 FR 20747, May 20, 1976.

*Aviation Safety Recommendations.*—The emergency landing of a Mercer Airlines DC-6 on a golf course in Van Nuys, California, last February 8, has been the subject of a recent investigation by the Safety Board. Investigation of the accident has revealed that the emergency was the result of an in-flight failure of a Curtiss-Wright Model 632S-B Type 744 hollow steel propeller blade which resulted from a fatigue crack. Further, investigation disclosed that the blade, hidden under a deicing boot or sheath, had been overhauled 85 operating hours before the accident; the sheath was not removed during overhaul. The Safety Board found that the certificated repair station's procedure for inspecting the blade was not the same as that prescribed in the manufacturer's overhaul manual and that the repair station did not have a current manual. The latest revision to the service/overhaul manual is dated March 1, 1962. The repair station copy was dated 1950. The propeller is no longer being manufactured.

The Safety Board expresses concern that components and accessories no longer manufactured are not being maintained, repaired, and overhauled according to current procedures, and the Board believes that this investigation has revealed circumstances which may exist in other certificated repair stations. Accordingly, the Board recommends that the Federal Aviation Administration (1) review the overhaul manuals for all metal propeller blades that are sheath equipped and insure that the manuals require that the surfaces of these blades beneath the sheaths be inspected either by removal of the sheath or by an alternate method which will detect cracks underneath the sheath; (2) remind 14 CFR 121 certificate holders of their responsibility for insuring the adequacy of maintenance of their aircraft and components, even if the maintenance is contracted to outside repair stations; and (3) review FAA surveillance procedures for certificated repair stations to insure that they are adequate and that all repair stations maintain and use complete and current maintenance manuals. The three recommendations, Nos. A-76-77 through A-76-79, were issued June 3 in a letter to FAA. The first two recommendations are "Class I—urgent followup"; the third recommendation is "Class II—priority followup."

*Letter in Response to Pipeline Safety Recommendations.*—The Transcontinental Gas Pipe Line Corporation (TRANSCO) letter of May 24 to the Safety Board provides an update of company action since last October to implement recommendations P-75-9 through P-75-11—recommendations made by the Board after investigation of the June 4, 1974, pipeline failure in TRANSCO's system near Bealeton, Virginia. (See 40 FR 36638, August 21, 1975; 41 FR 21713, May 27, 1976.) Attached to TRANSCO's May 24 letter is a copy of the company's letter of October 27, 1975, directed to the Office of Pipeline Safety, which spells out TRANSCO's actions to improve emergency and shutdown procedures in event of an accident or failure.

Re recommendation P-75-9, TRANSCO's May 24 letter indicates that installation of valve operators on open crossover and block valves in "Class III" areas and installation of sensitive rate-of-flow automatic valve shutdown services on crossovers normally open are scheduled to be completed by December 31, 1976. Re P-75-10 and P-76-11, TRANSCO states, ". . . installation of sensitive rate-of-flow automatic valve shutdown devices on open crossovers should assure the effectiveness of the existing pipeline failure alarm system at Compressor Stations." Installation of dial-type pressure gauges has been completed at all Stations. TRANSCO is scheduling completion by year's end of installation of a rate-of-pressure drop alarm on the discharge and suction headers at each Compressor Station as a backup for the existing alarm system.

Both the accident report and the safety recommendation letter are available to the general public; single copies may be obtained without charge. Copies of the letter responding to recommendations may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by report or recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the highway accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Dated: June 7, 1976.

MARGARET L. FISHER,
*Federal Register Liaison Officer.*

[FR Doc.76-16885 Filed 6-9-76;8:45 am]

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-324]

### CAROLINA POWER AND LIGHT CO.

#### Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR-62 issued to the Carolina Power and Light Company, which revised Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit 2, located in Brunswick County, North Carolina. The amendment is effective as of the date of issuance.

This amendment (1) authorizes operation of Brunswick Steam Electric Plant Unit 2 with the lower core support bypass flow holes plugged, and (2) establishes operating limits for the four new fuel elements added during the April-May 1976 outage.

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. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with item (1) above was published in the FEDERAL REGISTER on February 19, 1976 (41 FR 7594). No request for a hearing or petition for leave to intervene was filed following notice of this proposed action. Prior public notice of item (2) above is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated February 4 and April 27, 1976, as supplemented March 5, April 21 and 30, 1976, (2) Amendment No. 14 to License No. DPR-62, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Southport-Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

A single copy of items (2) and (3) 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 13th day of May 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc.76-16565 Filed 6-9-76;8:45 am]

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[Docket Nos. 50-237 and 50-249]

## COMMONWEALTH EDISON CO.

### Notice of Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 18 and 16 to Facility Operating License Nos. DPR-19 and DPR-25 (respectively), issued to Commonwealth Edison Company, which revised Technical Specifications for operation of the Dresden Nuclear Power Station Unit Nos. 2 and 3 (the facilities) located in Grundy County, Illinois. These amendments are effective as of their date of issuance.

These amendments modify the use of existing isolation valves which serve as part of the new nitrogen recirculating system.

The application for these amendments 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 amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commision has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated April 12, 1976, and a related filing dated March 12, 1976, (2) Amendment Nos. 18 and 16 to License Nos. DPR-19 and DPR-25, respectively, and (3) the Commission's related Safety Evaluation. 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 Morris Public Library at 604 Library Street in Morris, Illinois 60451.

A copy of items (2) and (3) 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 24th day of May 1976.

For the Nuclear regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch No. 2 Division of Operating Reactors.*

[FR Doc.76-16562 Filed 6-9-76;8:45 am]

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[Docket No. 50-213]

## CONNECTICUT YANKEE ATOMIC POWER CO.

### Notice of Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-61 issued to Connecticut Yankee Atomic Power Company (the licensee) for operation of the Haddam Neck Plant located in Middlesex County, Connecticut.

This amendment would provide for the Cycle VII reload a revised curve for allowable power vs. incore axial offset based on a Babcock & Wilcox "Flame 3" code which has not previously been used for a Haddam neck reload.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By July 12, 1976 the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated May 3, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Russell Library, 119 Broad Street, Middletown, Connecticut. The license amendment and the Safety evaluation, when issued, may be inspected at the above locations and a copy 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 28th day of May 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
*Chief, Operating Reactors Branch No. 1 Division of Operating Reactors.*

[FR Doc.76-16550 Filed 6-7-76;9:29 am]

[Docket Nos. Stn 50-491, Stn 50-492, and Stn 50-493]

## DUKE POWER CO., CHEROKEE NUCLEAR STATION, UNITS 1, 2, AND 3

### Notice of Issuance of Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Duke Power Company to conduct certain site activities in connection with the Cherokee Nuclear Station, Units 1, 2, and 3, prior to a decision regarding the issuance of construction permits.

The activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e) and include the following:

Preparation of the site for construction of the facility, installation of temporary construction support facilities, excavation for facility structures, construction of service facilities including access roads, and construction of permanent structures, systems, and components which are not subject to the provisions of Appendix B.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Duke Power Company and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A Partial Initial Decision on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on May 21, 1976. A copy of (1) the Partial Initial Decision; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report, and amendments thereto; (4) the staff's Final Environmental Statement dated October 1975; and (5) the Commission's letter of authorization, dated May 28, 1976, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and the Cherokee County Library, 300 East Rutledge Avenue, Gaffney, South Carolina.

Dated at Rockville, Maryland, this 28th day of May 1976.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
*Chief Environmental Projects Branch 3, Division of Site Safety and Environmental Analysis.*

[FR Doc.76-16556 Filed 6-9-76;8:45 am]

[Docket No. 50-334]

## DUQUESNE LIGHT CO., ET AL.

### Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that, pursuant to an Initial Decision by the Atomic Safety and Licensing Board dated May 28, 1976 the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. DPR-66, issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company for the Beaver Valley Power Station, Unit No. 1, located in Beaver County, Pennsylvania. The amendment authorizes testing and low power operation of the facility at up to thirty-five percent of the steady state reactor core full power level of 2652 megawatts thermal, for the purpose of start-up testing, including synchronization of the turbine-generator and "hot" licensing training of the reactor operators. Previously, the facility had been restricted to five percent of the steady state reactor core power level for the purpose of a limited amount of testing.

The amendment also revises portions of the Technical Specifications and relative to limiting conditions for operation and surveillance requirements regarding secondary water chemistry. Facility Operating License No. DPR-66, as amended, will expire following completion of start-up testing, including synchronization of the turbine-generator, and "hot" licensing training of the reactor operators.

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.

The application, including its amendments, 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.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative or environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the Initial Decision dated May 28, 1976, (2) the Office of Nuclear Reactor Regulation's Safety Evaluation Report, Supplement No. 3, dated March 19, 1976, (3) Amendment No. 3 to License No. DPR-66, and (4) the Commission's related "Interim Safety Evaluation Report on Westinghouse Fuel Rod Bowing", dated April 1976. 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 Beaver Valley Memorial Library, 100 College Avenue, Beaver, Pennsylvania.

A copy of items (2), (3, and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 28th day of May 1976.

For the Nuclear Regulatory Commission.

D. B. VASSALLO,
*Chief, Light Water Reactors Branch No. 5 Division of Project Management.*

[FR Doc.76-16561 Filed 6-9-76;8:45 am]

[Docket No. 50-70]

## GENERAL ELECTRIC CO.

### Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. TR-1 issued to General Electric Company, which revised licensed conditions for operation of the General Electric Test Reactor, located in Pleasantan, California. The amendment is effective as of its date of issuance.

The amendment changes certain license provisions for the receipt, possession and use of special nuclear, source, and byproduct materials, to clarify the license language and to change the type of source material permitted in instrument check sources.

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. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 2, 1976, (2) Amendment No. 7 to License No. TR-1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

A copy of items (2) and (3) 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 27th day of May 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
*Chief Operating Reactors Branch No. 1 Division of Operating Reactors.*

[FR Doc.76-16567 Filed 6-9-76;8:45 am]

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[Docket No. 50-321]

## GEORGIA POWER CO. AND OGLETHORPE ELECTRIC MEMBERSHIP CORP.

### Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-57 issued to Georgia Power Company and Oglethorpe Electric Membership Corporation, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment will incorporate revised operating limits into the Technical Specifications based upon an Emergency Core Cooling System (ECCS) Analysis which takes credit for the improved post-loss-of-coolant accident (LOCA) core reflood capability resulting from recently completed modifications to the Low Pressure Coolant Injection (LPCI) system.

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. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection wiith issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 9, 1976, (2) Amendment No. 33 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. 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 Appling County Public Library, Parker Street, Baxley, Georgia 31513.

A copy of items (2) and (3) 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 1st day of June 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.76-16569 Filed 6-9-76;8:45 am]

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[Docket No. 50-321]

## GEORGIA POWER CO. AND OGLETHORPE ELECTRIC MEMBERSHIP CORP.

### Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operating License No. DPR-57 issued to Georgia Power Company and Oglethorpe Electic Membership Corporation, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes in the Technical Specifications that modify the usage of existing automatic isolation valves associated with the installation of a nitrogen recirculation system.

The application for 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. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determines that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 13, 1976, (2) Amendment No. 32 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. 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 Appling County Public Library, Parker Street, Baxley, Georgia 31513.

A copy of items (2) and (3) 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 28th day of May 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.76-16564 Filed 6-9-76;8:45 am]

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[Docket No. 50-482A]

## KANSAS GAS AND ELECTRIC CO. AND KANSAS CITY POWER AND LIGHT CO. (WOLF CREEK GENERATING STATIONS, UNIT NO. 1)

### Notice of Reconstitution of Board

In the matter of Kansas Gas and Electric Company, and Kansas City Power and Light Company, (Wolf Creek Generating Station, Unit No. 1).

Margaret M. Laurence, Esq., was a member of the Atomic Safety and Licensing Board established for the above proceeding. Because of schedule conflicts, she is unable to continue in her duties as a member of this Board.

Accordingly, Daniel M. Head, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed a member of this Board.

Reconstitution of the Board in this manner is in accordance with § 2.721 of the Rules of Practice, as amended.

Dated at Bethesda, Maryland this 1st day of June 1976.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
JAMES R. YORE,
*Acting Chairman,*

[FR Doc.76-16555 Filed 6-9-76;8:45 am]

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[Docket No. STN 50-482]

## KANSAS GAS AND ELECTRIC CO. AND KANSAS CITY POWER AND LIGHT CO. (WOLF CREEK GENERATING STATION, UNIT NO. 1)

### Order Convening Hearing

In the matter of Kansas Gas and Electric Company and Kansas City Power and Light Company (Wolf Creek Generating Station, Unit No. 1).

The Atomic Safety and Licensing Board, in a further consideration of schedules and available dates for further evidentiary hearings in this proceeding can now confirm the suggested dates as stated at an evidentiary hearing which was held on April 30, 1976.

*Wherefore, it is ordered,* in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that an evidentiary hearing in this proceeding shall convene at 9:00 a.m. on Thursday, June 24, 1976 in the Legislative Chambers, Jackson County Courthouse, 415 East 12th Street, Kansas City, Missouri 64106.

Issued May 28, 1976, Bethesda, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
*Chairman.*

[FR Doc.76-16560 Filed 6-9-76;8:45 am]

[Docket No. 50-398]

## NEBRASKA PUBLIC POWER DISTRICT

### Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance.

This amendment revised the Technical Specifications for the facility to increase the allowable reactor coolant conductivity limit from 2 to <5 micromhos prior to startup, during operation up to 10% of rated power, and during hot standby.

The application, as modified, 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. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 20, 1976 and letter dated May 24, 1976, (2) Amendment No. 27 to License No. DPR-46, and (3) the Commission's concurrently issued Safety Evaluation. 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 Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of May 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.*

[FR Doc.76-16563 Filed 6-9-76;8:45 am]

[Docket No. 50-263]

## NORTHERN STATES POWER CO.

### Notice of Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Provisional Operating License No. DPR-22, issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment revised the provisions in the Technical Specifications of the facility to authorize (1) reduction of the main steam line low pressure isolation setpoint, and (2) reduction of the operating Minimum Critical Power Ratio (MCPR) limits for 7 by 7 and 8 by 8 fuel.

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. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on February 6, 1976 (41 FR 5460). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 1, 1975, and the supplement thereto dated February 27, 1976, (2) Amendment No. 19 to License No. DPR-22, and (3) the Commission's concurrently issued related Safety Evaluation. 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 Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (2) and (3) 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 27th day of May 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.*

[FR Doc.76-16558 Filed 6-9-76;8:45 am]

[Dockets Nos. 50-277 and 50-278]

## PHILADELPHIA ELECTRIC CO. ET AL.

### Notice of Issuance of Amendments to Facility Operating Licenses and Negative Declaration

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 21 and 21 to Facility Operating Licenses Nos. DPR-44 and DPR-56, respectively, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendments are effective as of their date of issuance.

The amendments consist of changes to the Environmental Technical Specifications that will allow operation with less than all cooling towers in service pending completion of repairs to the cooling towers.

The application for the amendments comply 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 amendments. Prior public notice of these amendments were not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications 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 proposed action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the Peach Bottom Atomic Power Station, Units 2 and 3 published in April 1973, and that a negative declaration to this effect is appropriate.

For further details with respect to this action, see (1) the application for amendments dated May 13, 1976, (2) Amend-

ments No. 21 to License No. DPR–44, and (3) Amendment No. 21 to License No. DPR–56. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401.

A copy of items (2) and (3) 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 15th day of May 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3 Division of Operating Reactors.*

[FR Doc.76–16568 Filed 6–9–76;8:45 am]

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[Docket Nos. 50–277 and 50–278]

## PHILADELPHIA ELECTRIC CO. ET AL.

### Notice of Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 19 and 19 to Facility Operating Licenses Nos. DPR–44 and DPR–56, respectively, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendments are effective as of their date of issuance.

The amendment will incorporate management organization changes into the Technical Specifications.

The application for the amendments 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 amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 8, 1976, (2) Amendment No. 19 to License No. DPR–44, (3) Amendment No. 19 to License No. DPR–56 and (4) the Commission's related Safety Evaluation. 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 Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401.

A copy of items (2), (3) and (4) 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 25 day of May 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.76–16553 Filed 6–9–76;8:45 am]

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[Dockets Nos. 50–266 and 50–301]

## POINT BEACH NUCLEAR PLANT, UNIT NO. 1 AND UNIT NO. 2

### Petition for Order To Show Cause

Notice is hereby given that by Petition dated May 17, 1976, the Public Interest Research Group and the Wisconsin Coalition for Energy Alternatives filed a request for an Order to Show Cause why Licenses Nos. DPR–24 and DPR–27 should not be suspended and why civil penalties should not be imposed. The requested order would be issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company. In accordance with the procedures specified in 10 CFR 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Document Department, University of Wisconsin—Stevens Point Library, Stevens Point, Wisconsin 54481.

Dated at Bethesda, Maryland this 30th day of May 1976.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
*Director, Office of Nuclear Reactor Regulation.*

[FR Doc.76–16554 Filed 6–9–76;8:45 am]

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[Docket No. 50–344]

## PORTLAND GENERAL ELECTRIC CO. ET AL.

### Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. NPF–1 issued to Portland General Electric Company, the City of Eugene, Oregon and Pacific Power and Light Company which revised a condition of the license for operation of the Trojan Nuclear Plant located on the west shore of the Columbia River in Columbia County, Oregon. The amendment is effective as of its date of issuance.

This amendment extends for five days the time allowed to replace certain output relays with relays which meet the seismic qualification criteria for Trojan Nuclear Plant.

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. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 13, 1976, (2) Amendment No. 7 to License No. NPF–1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051.

A copy of items (2) and (3) 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 21st day of May, 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
*Chief, Operating Reactors Branch No. 1 Division of Operating Reactors.*

[FR Doc.76–16566 Filed 6–9–76;8:45 am]

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[Docket No. 50–333]

## POWER AUTHORITY OF THE STATE OF NEW YORK AND NIAGARA MOHAWK POWER CORP.

### Notice of Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License NO. DPR–59 issued to Power Authority of the State of New York and Niagara Mohawk Power Corporation (the licensees), for operation of the James A. FitzPatrick Nuclear Power Plant located in Oswego County, New York.

The amendment would provide for a reduction in the Safety Limit Minimum

Critical Power Ratio from 1.06 to 1.05, for future reactor operation.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By July 12, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Arvin E. Upton, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street, N.W., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated May 19, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oswego City Library, 120 E. Second Street, Oswego, New York 13126. The license amendment and Safety Evaluation, when issued, may be inspected at the above locations and a copy 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 1st day of June, 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*

[FR Doc.76-16552 Filed 6-9-76;8:45 am]

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[Docket Nos. STN 50-546 and STN 50-547]

## PUBLIC SERVICE COMPANY OF INDIANA (MARBLE HILL NUCLEAR GENERATING STATION, UNITS 1 AND 2)

### Notice of Reconstitution of Board

In the matter of Public Service Company of Indiana, Inc., (Marble Hill Nuclear Generating Station, Units 1 and 2).

Dr. William E. Martin was a member of the Atomic Safety and Licensing Board established to consider the above application. Because of schedule conflicts, Dr. Martin is unable to continue in his duties as a member of this Board.

Accordingly, Dr. Quentin J. Stober, whose address is Fisheries Research Institute, University of Washington, Seattle, Washington 98195, is appointed a member of this Board.

Reconstitution of the Board in this manner is in accordance with § 2.721 of the Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 1st day of June 1976.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
JAMES R. YORE,
*Acting Chairman.*

[FR Doc.76-16559 Filed 6-9-76;8:45 am]

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[Docket No. STN 50-485]

## ROCHESTER GAS AND ELECTRIC CORP. (STERLING POWER PROJECT NUCLEAR UNIT NO. 1)

### Order Setting Time

In the matter of Rochester Gas and Electric Corporation, (Sterling Power Project Nuclear Unit No. 1).

On May 19, 1976 the Licensing Board gave notice of a Prehearing Conference to be held in this proceeding on June 22, 1976 at the Oswego County Legislative Chambers, Oswego County Building, 3rd Floor, 46 East Bridge Street, Oswego, New York.

The time for the commencement of that Prehearing Conference is hereby established as 9:30 a.m.

*It is so ordered.*

Dated at Bethesda, Maryland this 1st day of June 1976.

THE ATOMIC SAFETY AND LICENSING BOARD,
EDWARD LUTON,
*Chairman.*

[FR Doc.76-16557 Filed 6-9-76;8:45 am]

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[Docket No. 50-301]

## WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

### Notice of Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company for operation of the Point Beach Nuclear Plant Unit No. 2, located in the Town of Two Creeks, Manitowac County, Wisconsin.

The amendment would revise the provisions in the Technical Specifications relating to core DNB (Departure from Nucleate Boiling) safety limits and hot channel factors associated with a proposed new fuel assembly design for operation of Unit 2 in core Cycle 4, in accordance with the licensee's application for amendment, dated May 12, 1976.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By July 12, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Bruce Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, Barr Building, 910 17th Street, N.W., Washington, D.C. 20006, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the

Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated May 12, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Document Department, University of Wisconsin—Stevens Point Library, ATTN: Mr. Arthur M. Fish, Stevens Point, Wisconsin 54481. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy 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 1st day of June 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3 Division of Operating Reactors.*

[FR Doc.76-16551 Filed 6-9-76;8:45 am]

## REGULATORY GUIDE

### Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8.14, "Personnel Neutron Dosimeters," provides guidance acceptable to the NRC staff on the use of personnel neutron dosimeters where exposure to neutrons occurs. This guide endorses ANSI Standard N319-1975, "Personnel Neutron Dosimeters (Neutron Energies Less than 20 MeV)."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 8.14 will, however, be particularly useful in evaluating the need for an early revision if received by August 6, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 1st day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
*Director, Office of Standards Development.*

[FR Doc.76-16570 Filed 6-9-76;8:45 am]

[Docket No. 50-315]

## INDIANA AND MICHIGAN ELECTRIC CO. AND INDIANA AND MICHIGAN POWER CO. (DONALD C. COOK NUCLEAR PLANT UNIT NO. 1)

### Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. DPR-58 issued to Indiana and Michigan Electric Company and Indiana and Michigan Power Company. The amendment revises the Technical Specifications for operation of the Donald C. Cook Nuclear Plant Unit 1 located in Berrien County, Michigan, and is effective as of May 15, 1976.

The amendment changes certain Technical Specifications to correct original errors in the limits of control rod worth for ejected control rods.

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 required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. These findings are set forth in the license amendment. Prior public notice of this amendment is not required because the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 17, 1976, (2) Amendment No. 15 to License No. DPR-58, (3) the Commission's letter to the licensee dated May 15, 1976, and (4) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 2nd day of June 1976.

For the Nuclear Regulatory Commission.

KARL KNIEL,
*Chief, Light Water Reactors Branch 2, Division of Project Management.*

[FR Doc.76-16624 Filed 6-9-76;8:45 am]

[Docket No. 50-315]

## INDIANA AND MICHIGAN ELECTRIC CO. AND INDIANA AND MICHIGAN POWER CO. (DONALD C. COOK NUCLEAR PLANT, UNIT 1)

### Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR-58 issued to Indiana and Michigan Electric Company and Indiana and Michigan Power Company for operation of the Donald C. Cook Nuclear Plant, Unit 1, located in Berrien County, Michigan. This amendment is effective as of its date of issuance.

The amendment increases the authorized power at which the Donald C. Cook Nuclear Plant, Unit 1, may be operated to 3250 megawatts thermal (100 percent of rated power). This authorization is effective only until such time as the reactor is next refueled, at which time the authorized power level will be 2632.5 megawatts thermal (81 percent of rated power).

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 required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. These findings are set forth in the license amendment. Prior public notice of this amendment was published in the FEDERAL REGISTER on April 8, 1976 (41 FR 14954).

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative declaration or environmental

impact appraisal need not be prepared in connection with issuance of this amendment.

The basis for this licensing action is contained in a Safety Evaluation Report dated May 1976.

For further details with respect to these actions see (1) the application for amendment dated October 15, 1975, (2) March 11, 1976 report to the Commission by the Advisory Committee on Reactor Safeguards, and (3) Amendment No. 14 to Facility Operating License DPR–58 with the Commission's related Safety Evaluation. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 28 day of May 1976.

For the Nuclear Regulatory Commission.

KARL KNIEL,
*Chief, Light Water Reactors Branch 2, Division of Project Management.*

[FR Doc.76–16625 Filed 6–9–76;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE DIABLO CANYON NUCLEAR POWER STATION UNITS 1 AND 2

### Notice of Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Diablo Canyon Nuclear Power Station, Units 1 and 2 will hold a meeting on June 25 and 26, 1976 at the Royal Inn, 241 Madonna Road, San Luis Obispo, CA. The purpose of this meeting is to continue review of the application of the Pacific Gas and Electric Company for a license to operate Units 1 and 2.

The agenda for the subject meeting shall be as follows:

*Friday, June 25, 1976, 8:30 a.m.* The Subcommittee will meet in closed Executive Session, with any of its consultants who may be present, to exchange opinions and discuss preliminary views and recommendations relating to the above review.

*9:00 a.m. until the conclusion of business on June 25, and 8:30 a.m. until the conclusion of business on Saturday, June 26.* The Subcommittee will meet in open session to hear presentations by representatives of the NRC Staff, the Pacific Gas and Electric Company, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of the open session, the Subcommittee may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During the session Subcommittee members and consultants will discuss their opinions and recommendations on these matters. Upon conclusion of this caucus, the Subcommittee may meet again in brief open session to announce its determination.

In addition to these closed deliberative sessions, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and Applicant matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)) and to protect confidential proprietary information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions, and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than June 18, 1976 to Mr. J. C. McKinley, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW, Washington, DC 20555 and at the San Luis Obispo County Free Library, San Luis Obispo, CA 93406.

(b) These persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time alloted therefor can be obtained by a prepaid telephone call on June 23, 1976 to the Office of the Executive Director of the Committee (Attn: Mr. J. C. McKinley, telephone 202/634–1371) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information, other than safeguards information, may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. J. C. McKinley of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after July 2, 1976 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555 and at the San Luis Obispo County Free Library, San Luis Obispo, CA 93406.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555 after September 27, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: June 7, 1976.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.76–16995 Filed 6–11–76;8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the Public received by the Office of Management

and Budget on June 3, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Questionnaire on Reasons for VA Physician and Dentist Separations, single-time, voluntarily separating from VA, Reese, B. F., 395-3211.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Study to Assess and Compare Type A Lunches with Alternative Subsidized Lunches Among High School Students, single-time, high school food service managers and students, Raynsford, R., 395-3814.

DEPARTMENT OF COMMERCE

Economic Development Administration, Technical Assistance Implementation Inquiry, ED-373, single-time, recipients of EDA Technical assistance, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control:

Survey of Participants and Non-Participants in the Atlanta Amniocentesis Program, CDC 4.514 A, single-time, women 40+ who did and did not have amniocentis, Richard Eisinger, 395-6140.

Office of Human Development:

Instruction for Applying for Grants from OHD Programs on Occasion, Non-Profit Organizations, Budget Review Division, Caywood, D. P., 395-4775.

DEPARTMENT OF LABOR

Departmental and Other, An Analysis of the Effectiveness of Counseling in the U.S. Employment Service, MT-278, single-time, uses clients, C. Louis Kincannon, 395-3211.

REVISIONS

U.S. CIVIL SERVICE COMMISSION

Job Qualifications Statement, SF173, on occasion, applicants for blue collar positions, Caywood, D. P., 395-3443.

OFFICE OF MANAGEMENT AND BUDGET

Application for Federal Assistance-non-Construction on Occasion, Non-Profit Agencies, Budget Review Division, Caywood, D. P., 395-4775.

VETERANS ADMINISTRATION

Application for Ordinary Life Insurance (at age 65), 29-8485, on occasion, insured veterans; Caywood, D. P., 395-3443.

Authorization for Release of Information * * * Insurance Records, 29-4337, on occasion, insured veterans, Caywood, D. P., 395-3443.

Application for Conversion, 29-358, on occasion, insured veterans, Caywood, D. P., 395-3443.

Loan and Cash Surender Values, 29-5772, on occasion, insured veterans, Caywood, D. P., 395-3443.

Obtaining Original Information from Doctor, FL 29-551A, on occasion, physician, Caywood, D. P., 395-3443.

Application for Reduction, Government Life Insurance, 29-339, on occasion, insured veterans, Caywood, D.P., 395-3443.

Farm Survey and Overall Farm and Home Plan-Self-Proprietor Chapter 31, Title 38, U.S.C., 21-E1905N, on occasion, on-farm contract instructor, Caywood, D. P., 395-3443.

Statement of Applicant and/or Physical Examination Report, 29-4465, on occasion, veterans, Caywood, D. P., 395-3443.

DEPARTMENT OF LABOR

Employment and Training Administration, CETA Forms Preparation Handbook for Title I and II, MA 2-202, 203 219, 220, MA-5-134-136, 145, 145A, other (see SF-83), State and local agencies, Lowry, R. L., Caywood, D. P., 395-3772.

EXTENSIONS

NATIONAL SCIENCE FOUNDATION

1975 Quick Response Survey of Graduate Science and Engineering Enrollment, annually, graduate science department chairmen, Kathy Wallman, 395-6140.

Survey of Graduate Science Student Support and Summary, NSF 811, annually, graduate science department chairmen, Kathy Wallman, 395-6140.

DEPARTMENT OF AGRICULTURE

Agriculture Research Service, and Regulations—National Poultry and Turkey Improvement Plans, on occasion, farms, Traynham, Marsha, 395-4529.

DEPARTMENT OF COMMERCE

Bureau of Census, Incorporated Place Survey Sheet, GE031-L, annually, incorporated cities and towns, Maria Gonzalez, 395-6132.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Recertification of Family Income and Composition Section 235, (B) HUD 93191, 93101A, 93101B, on occasion, homeowners receiving assistance, Community and Veterans Affiars Division, 395-3532.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Talc, Soapstone, and Pyrophyllite (Production), 6-1290-A, annually, Producers of Talc, etc., Marsha Trayhan, 395-4529.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.76-17074 Filed 6-9-76;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 12516]

### BOSTON STOCK EXCHANGE, INC.

### Order Approving Proposed Rule Change

In the Matter of Boston Stock Exchange, Inc., 53 State Street, Boston, Massachusetts 02109 (SR-BSE-76-7).

On March 17, 1976, the Boston Stock Exchange filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to define members, member organization, and associated persons pursuant to Section 3(a)(18) of the Securities Exchange Act of 1934 and to revise the qualifications of membership as required by the 1975 Amendments to the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12227 (March 17, 1976)) and by publication in the FEDERAL REGISTER (41 FR 12099 (March 23, 1976)). On June 1, 1976 the Boston Stock Exchange, Inc. made certain technical revisions in the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

*It is therefore ordered,* Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on March 17, 1976, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-16834 Filed 6-9-76;8:45 am]

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[Release No. 19554; 70-5799]

### CONSOLIDATED NATURAL GAS CO.

### Proposed Issuance and Sale of Common Stock Pursuant to Employee Stock Ownership Plan and Dividend Reinvestment Plan

JUNE 3, 1976.

Notice is hereby given That Consolidated Natural Gas Company ("Consolidated"), 30 Rockefeller Plaza, New York, New York 10020, a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated March 1, 1976 (HCAR No. 19409), the Commission authorized Consolidated to amend its Charter to permit its Board of Directors to issue and sell, without first making an offering to its existing common shareholders on a subscription basis, unissued shares of common stock presently or hereafter authorized to (1) any employee stock ownership plan which

may be adopted by Consolidated or any of its subsidiaries whereby Consolidated would be permitted by Federal tax law to fund the plan by reducing its taxes in an amount equal to such funding and (2) any dividend reinvestment plan with respect to Consolidated's common stock.

Consolidated now proposes, in accordance with said amendment to its Charter, to issue and sell authorized and unissued shares of its common stock, to (a) an employee stock ownership plan ("ESOP") whereby Consolidated would be permitted by Federal tax law to fund the plan by reducing its taxes in an amount equal to such funding and/or (b) a dividend reinvestment plan ("DRP") available to Consolidated's common stockholders. At present, Consolidated has total authorized capital stock of 24,500,000 shares, divided into 2,500,000 shares of preferred stock of the par value of $100 each and 22,000,000 shares of common stock of the par value of $8 each; 500,000 shares of preferred stock are issued and outstanding, as are 18,919,362 common shares.

The proposed issuance and sale of common stock is estimated at up to 750,000 shares, consisting of (a) an aggregate of 680,000 shares to Manufacturers Hanover Trust Company ("Manufacturers"), agent for those common stockholders participating in the DRP, or to Manufacturers' nominee, until December 31, 1978, and (b) an aggregate of 70,000 shares to the Trustees of the ESOP until December 31, 1977.

The declaration states that the Tax Reduction Act of 1975 permits a corporation to elect an additional 1% investment tax credit on qualified property additions during the period January 22, 1975, through December 31, 1976, provided an amount equivalent to the additional tax credit is invested in the corporation's common stock through an employee stock ownership plan and that, in effect, said act allows a corporation to fund the plan by reducing taxes to the extent of the additional 1% credit. Shares are acquired at no cost by employees.

With respect to Consolidated's proposal, the number of shares to be sold to the Trustees of the ESOP will be determined by dividing the amount of the additional 1% allowable investment tax credit by the average closing price of the stock on the New York Stock Exchange for the 20 consecutive trading days immediately preceding the date of issue of the shares. Based on the Consolidated system's qualifying property additions for 1975 and those budgeted for 1976, it is estimated that the additional 1% investment tax credit for both years would amount to an aggregate of $1,750,000. The system's 7,700 employees would thereby acquire approximately 70,000 shares of common stock if the price to be paid, as determined above, were $25 a share. At that price, no employee would receive more than 30 shares of stock for 1975.

The declaration states that since December 1973 Manufacturers Hanover Trust Company has been administering a dividend reinvestment plan as agent for participating common shareholders of Consolidated. Dividends received by shareholders have been reinvested through the purchase of the common stock of the company on the open market. The approximately 3,000 shareholders currently participating in the plan acquired some 20,000 shares of Consolidated's stock in the calendar year 1975 through dividend reinvestment of $500,000. Consolidated now intends to sell directly to the agent such authorized and unissued shares of its common stock as may be needed for the reinvestment of dividends and for optional cash investment under the plan. The shares would be sold by Consolidated at the average closing price on the New York Stock Exchange for the 20 consecutive trading days immediately preceding the dividend payment date. Consolidated asserts that stockholders participating in the dividend reinvestment plan would benefit from the proposed sale of shares inasmuch as the brokerage commissions on shares now being bought by the agent on the open market would be eliminated. Also, it is the intention of Consolidated to absorb the agent's service charge during the period of sale.

It is further stated that the proposed transactions will provide Consolidated with an additional source of common equity capital at the most economical cost to the company and that, in addition, they will help to reduce the size of any public or subscription offering and thereby proportionately lessen the depressing effect that such an offering would usually have on the market price of the company's common stock.

The fees and expenses incurred or to be incurred in connection with the proposed transactions are estimated at $104,000, including accountants' fee of $13,500, geologists' fee of $7,500, and system service company charges, at cost, of $25,000. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Consolidated has requested that the issuance and sale of the common stock be excepted from the competitive bidding requirements of Rule 50 under the Act.

Notice is further given That any interested person may, not later than July 1, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-16830 Filed 6-9-76;8:45 am]

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[File No. 500-1]

## GEICO

### Suspension of Trading

JUNE 3, 1976.

In the matter of trading in securities of Government Employees Insurance Company.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Government Employees Insurance Company being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:00 a.m. (EDT) on June 3, 1976 through June 12, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-16831 Filed 6-9-76;8:45 am]

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[File No. 500-1]

## PENN FRUIT CO., INC., ET AL.

### Suspension of Trading

JUNE 2, 1976.

In the matter of trading in securities of Penn Fruit Company, Inc., Macmillan Ring-Free Oil Co., Inc., Tremont Corp., Riverside Properties, Prel Corp., Weston International Corp.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of the above companies being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 1:45 p.m.

(EDT) on June 2, 1976 through June 11, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-16832 Filed 6-9-76;8:45 am]

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[File No. 24A-2277, A-843]

## W. E. HAUCK, INC.

### Order Temporarily Suspending Exemption

JUNE 2, 1976.

In the matter of W. E. Hauck, Inc., 1207 Alpharetta Street, Alpharetta, Georgia.

I. On October 31, 1975, W. E. Hauck, Inc. (the "Issuer") filed with the Atlanta Regional Office a Notification and Offering Circular pursuant to Regulation A, promulgated under Section 3(b) of the Securities Act of 1933. The Issuer was incorporated on September 3, 1975, under the laws of the State of Georgia, with an authorized capitalization of 2,000,000 shares of Common Stock, par value $.10. According to the Issuer's Articles of Incorporation, the firm was organized for the purpose of, generally, manufacturing, purchasing, selling, importing, exporting and generally dealing in various pharmaceutical and medical merchandise.

The Issuer proposed to offer, pursuant to Regulation A, 425,000 shares of its Common Stock for cash at $1.00 per share, 52,000 shares of its Common Stock in exchange for Common Stock in Reid-Provident Laboratories, Inc., and 25,000 shares of its Common Stock for certain assets of American Research Laboratories, Inc. The Atlanta firm of ETI Investment Corporation was to serve as underwriter for this offering. No shares, however, have yet to be sold pursuant to the Regulation A exemption, nor has the Atlanta Regional Office cleared the filing.

II. The Commission, on the basis of information provided by its staff, has reason to believe that:

A. The Notification and Offering Circular of the Issuer contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, particularly with respect to:

1. The failure to disclose the existence of a special brokerage account and the fact that the stock contained therein had been deposited pursuant to a previously proposed securities offering but had not been returned to the stockholders;

2. The failure to disclose the use of a solicitation letter prior to filing of the Notification and Offering Circular;

3. The failure to disclose that the offering had in fact commenced prior to the filing of the Notification and Offering Circular, in violation of Section 5 of the Securities Act of 1933;

4. The failure to disclose that the Commission had not given preliminary approval to the Issuer's offering, as falsely stated in the solicitation letter;

5. The failure to disclose that the Issuer had no reasonable basis for estimating the number of shares to be sold and the number of physicians that would invest in the Issuer, as falsely stated in the solicitation letter; and

6. The failure to disclose that the solicitations prior to the Regulation A filing were directed at a class of individuals broader than that implied in the solicitation letter.

B. The Issuer failed to comply with the terms and conditions of Regulation A in that it:

1. Failed to disclose the facts enumerated above in section 'A'; and

2. Failed to comply with the requirements of Rules 253 and 254 in that the offering would exceed the Regulation A ceiling limitation.

C. The offering, if made, would be in violation of Section 17 of the Securities Act of 1933.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the Issuer under Regulation A be temporarily suspended.

It is ordered, pursuant to Rule 261(a) of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption of the Issuer under Regulation A be, and it is hereby, temporarily suspended.

It is further ordered, pursuant to Rule 7 of the Commission's Rules of Practice, that the Issuer file an answer to the allegations contained in the order within thirty (30) days of the entry thereof.

Notice is hereby given That any person having an interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty (30) days after entry of this order; that within twenty (20) days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for such hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-16833 Filed 6-9-76;8:45 am]

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[Release No. 34-12513; File No. SR-DTC-76-4]

## DEPOSITORY TRUST CO.

### Self-Regulatory Organizations

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 April 29, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF PROPOSED RULE CHANGE

1. *Text of Proposed Rule Change*

(a) Amend the definitions of "ASECC" and "SCC" in Rule 1 as follows:

ASECC: The term "ASECC" means [American Stock Exchange Clearing Corporation] *the ASECC Division of NSCC.*

NCC: *The term "NCC" means the NCC Division of NSCC.*

NSCC: *The term "NSCC" means the National Securities Clearing Corporation.*

Amend the last paragraph of Rule 6 as follows:

For the purposes of this Rule a Special Representative shall include any of the following persons who acts on behalf of a Participant: (1) [the National Clearing Corporation ("]NCC[")], but only insofar as NCC acts on behalf of a Participant who is a member of NCC and from which Participant the Corporation has not received notice that such Participant has ceased to be a member of NCC, (2) [Carlisle De Coppet & Co., but only to the extent that firm acts as an odd-lot broker or dealer under the rules of the New York Stock Exchange, Inc. and (3)] SCC, but only insofar as SCC acts on behalf of a Participant who is a member of SCC and from which Participant the Corporation has not received notice that such Participant has ceased to be a member of SCC and [(4)] (3) ASECC, but only insofar as ASECC acts on behalf of a Participant who is a member of ASECC and from which Participant the Corporation has not received notice that such Participant has ceased to be a member of ASECC.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

3. *Purpose of Proposed Rule Change*

One purpose of the proposed rule change is to change the references in the Rules to Stock Clearing Corporation (SCC), American Stock Exchange Clearing Corporation (ASECC) and National Clearing Corporation (NCC) to references to the SCC Division, ASECC Division and NCC Division in anticipation of the acquisition of the businesses of SCC, ASECC and NCC by National Securities Clearing Corporation (NSCC) and the operation thereof as such Divisions. The portion of the proposed rule change relating to these matters will become effective upon such acquisition by NSCC.

In addition, reference to Carlisle De Coppet & Co. (Carlisle) as a Special Representative has been deleted because of the acquisition of Carlisle's business by the New York Stock Exchange, Inc. (NYSE)

4. *Basis Under the Act for Proposed Rule Change.*

(a) Not Applicable.

(b) The change in the Rules relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (the Act) by perfecting the mechanism of a national system for the prompt and accurate clearance and set-

tlement of securities transactions in that it permits DTC to continue to provide services now provided notwithstanding changed conditions.

(c) Not applicable.

5. *Comments Received from Members, Participants or Others on Proposed Rule Change.*

No comments have been solicited.

6. *Burden on Competition.*

None

On or before July 19, 1976 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rules change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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, Securities and Exchange 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, NW., 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 be submitted on or before July 1, 1976.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JUNE 3, 1976.

[FR Doc.76-16837 Filed 6-9-76;8:45 am]

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[Release No. 34-12512; File No. SR-NYSE-76-29]

## NEW YORK STOCK EXCHANGE, INC.

### Self-Regulatory Organizations

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 April 30, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change effects changes in Article XII and Article XIII of the New York Stock Exchange, Inc. (the Exchange) Constitution, adds a new Rule 14 to the Rules of the Exchange, amends Rules 165, 167, 183, 194, 196, 200, 209, 281 and 376 of the Rules of the Exchange and indirectly amends other Rules of the Exchange by substituting the SCC Division of National Securities Clearing Corporation (NSCC) for the term "Stock Clearing Corporation" and similar terms effective upon the transfer of the clearing agency business of Stock Clearing Corporation to the SCC Division of NSCC and making other changes necessary to reflect such transfer.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

3. *Purpose of Proposed Rule Change.*

The purpose of the proposed rule change is to make appropriate changes in the Constitution and the Rules of the Exchange in order to reflect the transfer of the clearing agency business of Stock Clearing Corporation to National Securities Clearing Corporation.

*Article XII, Sections 2 and 3.*

Section 2 of Article XII would be amended to delete provisions which subject Exchange Contracts to the By-Laws and Rules of SCC. Transactions to which a SCC member who becomes a participant in NSCC is a party which are not completed prior to the Effective Date will be subject to the Rules of NSCC by agreement between SCC, NSCC and each member of SCC. Transactions which are not completed prior to the Effective Date to which SCC members who do not become participants in NSCC will be subject to the By-Laws and Rules of SCC by reason of existing agreements between such SCC members and SCC.

It is not proposed to subject Exchange Contracts to the Rules of NSCC by Exchange Constitutional provisions. NSCC Rules will apply to Exchange Contracts cleared and settled through NSCC by agreement between NSCC and its participants.

The first paragraph of Section 3 of Article XII would be amended as of the Effective Date to provide for the delivery and payment of every Exchange Contract through NSCC unless otherwise agreed and the second paragraph would be amended to refer to the NSCC Rules as to who may clear and settle through NSCC.

*Article XIII, Section 2*

Section 2 of Article XIII would be amended to eliminate the possibility of suspension of a member upon advice of the Board of Directors of SCC in recognition of the fact that SCC will not, after the Effective Date, be engaged in a business relevant to such a determination. NSCC has not been substituted for SCC. Under the Securities Exchange Act of 1934 the Exchange is entitled to suspend a member summarily if he is suspended by a registered clearing agency.

*Rules.*

It is proposed that a new Rule 14 be added to the Rules of the Exchange which would define Stock Clearing Corporation to mean the SCC Division of NSCC, except in the case of Rules 196 and 200. Since the National OTC Clearing Corporation has been succeeded by National Clearing Corporation and, on the Effective Date, National Clearing Corporation will become the NCC Division of NSCC, Rule 14 would define National OTC Clearing Corporation to mean said NCC Division.

Rules 165, 167, 183, 194, 281 and 376 make reference to the By-Laws of SCC. These Rules would be amended to refer to the SCC Division of NSCC and to delete references to the By-Laws thereof since all relevant provisions of the By-Laws of SCC will be contained in the Rules of the SCC Division of NSCC.

Rule 196 provides that when the name of SCC has been inserted in an assignment, as attorney, or in a power of substitution, as substitute attorney, a power of substitution shall be executed in blank by SCC. Since after the Effective Date certificates in which the name of SCC has been inserted as aforesaid may be in the public domain, it is not proposed to amend such provision. However, to provide similarly for NSCC, it is proposed that Rule 196 be amended to add a like provision with respect to NSCC.

Likewise, subparagraphs (a), (c) and (e) of Rule 200 provide for the use of signatures and facsimile signatures of SCC and its officers and employees. For the reasons stated above in connection with Rule 196, these provisions will not be deleted; instead NSCC will be placed in the same position as SCC by amendments to subparagraphs (a) and (c) and a provision equivalent to existing subparagraph (e) in relation to facsimile signatures will be added to Rule 200 as a new subparagraph (g). Similar changes are to be made in Rules 200.10 and 200.20.

4. *Basis under the Act for Proposed Rule Change.*

(a) The proposed rule change relates the fostering of cooperation and coordination with persons engaged in clearing and settling and facilitating transactions in securities in that it provides for the conduct of clearance and settlement through NSCC after NSCC acquires the Clearing agency business of SCC.

(b) Not applicable.

(c) Not applicable.

5. *Comments Received from Members, Participants or Others on Proposed Rule Change.*

Comments on the proposed rule change were not solicited.

6. *Burden on Competition.*

None.

On or before July 19, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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, Securities and Exchange 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 July 1, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JUNE 3, 1976.

1. *Text of Proposed Rule Change.*

(a) It is proposed that the Constitution and the Rules of the New York Stock Exchange, Inc. (the Exchange) be amended as provided below effective upon the transfer (the Effective Date) of the clearing agency business of Stock Clearing Corporation (SCC) to National Securities Clearing Corporation (NCC):

Amend Sections 2 and 3 of Article XII of the Constitution as follows:

Sec. 2. The provisions of the Constitution of the Exchange and of the rules adopted pursuant to thereto shall be a part of the terms and conditions of all Exchange Contracts [and the By-Laws and the Rules of Stock Clearing Corporation approved by the Board of Directors shall be a part of the terms and conditions of every contract which is to be cleared or settled through Stock Clearing Corporation,] and all such contracts shall be subject to the exercise by the Board of Directors [and Stock Clearing Corporation] of the powers with respect thereto vested in them by the Constitution and rules adopted pursuant thereto [and by the By-Laws and the Rules of Stock Clearing Corporation, respectively].

Sec. 3. On every Exchange Contract delivery and payment shall be made through [Stock] *National Securities* Clearing Corporation as required by the By-Laws and Rules of [Stock] *National Securities* Clearing Corporation unless it is otherwise stipulated in the bid or offer, or it is otherwise mutually agreed by the parties to the contract, or [Stock] *National Securities* Clearing Corporation either in the particular instance or in pursuance of its By-Laws and Rules refuses to act in the matter.

A Party to any such contract who is not a [Clearing Member as defined in the By-Laws of Stock Clearing Corporation] *participant in National Securities Clearing Corporation entitled to clear and settle any such contract through National Securities Clearing Corporation* shall cause the transaction to be cleared or settled for him by a [Clearing Member] *Participant in National Securities Clearing Corporation who is so entitled.*

Amend Section 2 of Article XIII of the Constitution as follows:

Sec. 2. Whenever it shall appear to the Chairman of the Board that a member has failed to meet his engagements, or is insolvent, or the Chairman of the Board has been advised by the Board of Directors of the Exchange [or by the Board of Directors of Stock Clearing Corporation] that such member is in such financial or operating condition that he cannot be permitted to continue in business with safety to his creditors or the Exchange, prompt notice thereof shall be given to the Exchange. Such member shall thereby become suspended from membership until he has been reinstated as provided in Section 5 of this Article.

Whenever it shall appear to the Chairman of the Board that a member firm or member corporation has failed to meet its engagements, or is insolvent, or the Chairman of the Board has been advised by the Board of Directors of the Exchange [or by the Board of Directors of Stock Clearing Corporation] that such member firm or member corporation is in such financial or operating condition that it cannot be permitted to continue in business with safety to its creditors or the Exchange, prompt notice thereof shall be given to the Exchange. Such member firm or member corporation shall thereby become suspended as a member firm or as a member corporation and every member or allied member who is a general partner or holder of voting stock therein shall thereby become suspended from membership or allied membership, until reinstated as provided in Section 5 of this Article.

Add a new Rule 14, as follows:

Rule 14. The terms "Stock Clearing Corporation", "Stock Clearing" and "Clearing Corporation" mean the SCC Division of National Securities Clearing Corporation, except that in Rules 196 and 200 the term "Stock Clearing Corporation" shall mean Stock Clearing Corporation. The term "National OTC Clearing Corporation" means the NCC Division of National Securities Clearing Corporation.

Amend the following Rules in the manner indicated:

Rule 165. The party who is partially unsecured by reason of a change in the market value of the subject of an Exchange Contract other than a contract included in Continuous Net Settlement System of [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation,* may demand from the other party the difference between the contract price and the market price. The party from whom such difference is demanded shall immediately either (1) pay the same directly or through [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation* to the party who is partially unsecured, in which case the money so paid shall bear interest at the current renewal rate for call loans, except in the case of a loan of securities when the money so paid shall be considered part of such loan, or (2) deposit the same with [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation,* if permitted by its [By-Laws and] Rules.

Rule 167. If the party required to make a deposit with [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation* is not a Clearing Member as defined in the [By-Laws] *Rules* of [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation,* he shall cause the deposit to be made for him by a Clearing Member. The cash so deposited with [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation* shall be held by it subject to its [By-Laws and] Rules.

Rule 183. In all deliveries of securities, the party delivering shall have the right to require the purchase money to be paid upon delivery; if delivery is made by transfer, payment may be required at the time and place of transfer; provided, however, that payment on deliveries through [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation* shall be made in conformity with its [By-Laws and] Rules.

Rule 194. Each delivery of securities subject to tax on transfer or sale must be accompanied by a sales ticket stamped in accordance with the laws of the State of New York, except that in the case of securities cleared or deliverable through [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation,* sales tickets so stamped shall be delivered in accordance with its [By-Laws and] Rules.

Amend Rule 196 by adding the following paragraph at the end thereof:

*When the name of National Securities Clearing Corporation has been inserted in an assignment, as attorney, or in a power of substitution, as substitute attorney, a power of substitution shall be executed in blank by National Securities Clearing Corporation as provided in Rule 200(g).*

Amend Rule 200 by amending paragraphs (a) and (c) and adding a new paragraph (g) at the end thereof as follows:

(a) A member corporation may authorize one or more of its officers, or one or more other persons, who are either its employees or who are officers or employees of Stock Clearing Corporation *or National Securities Clearing Corporation,* to assign registered securities in the name of the member corporation and on its behalf and to guarantee assignments, by filing with the Exchange, in the form prescribed by it, a certified copy of resolutions of its Board of Directors, authorizing such person or persons so to act.

(c) A member or member firm may authorize one or more persons, who are either his or its employees or who are officers or employees of Stock Clearing Corporation *or National Securities Clearing Corporation,* to assign registered securities in the name of such

member or member firm and to guarantee assignments, with the same effect as if the name of such member or firm had been signed under like circumstances by such member or by one of the partners of the firm, by executing and filing with the Exchange, in the form prescribed by it, a separate Power of Attorney for each person so authorized.

*(g) National Securities Clearing Corporation may execute powers of substitution by means of a mechanically reproduced facsimile signature of an officer of such corporation, provided such corporation shall have (1) executed and filed with the Exchange, in the form prescribed by it, an agreement with respect to the use of such facsimile signature, (2) filed with the Exchange, in the form prescribed by it, a certified copy of resolutions of the Board of Directors of such corporation authorizing the execution and filing with the Exchange of such agreement, and (3) complied with such other requirements as may be prescribed by the Exchange in connection with the use of facsimile signatures.*

Amend the ninth paragraph of Rule 200.10 as follows:

In filing resolutions (Other than Officers) the Exchange requires a covering letter stating that the person being authorized is an employee of the member corporation (or an officer or employee of Stock Clearing Corporation *or of National Securities Clearing Corporation*).

Amend the fourth paragraph of Rule 200.20 as follows:

A power of attorney filed with the Exchange must be accompanied by a specimen of the signature which will be used by the person appointed, together with a covering letter stating that the person being authorized is an employee of the member firm (or an officer or employee of Stock Clearing Corporation *or of National Securities Clearing Corporation*). On receipt of a power of attorney in proper form and a specimen signature, the Exchange will undertake to have cards prepared bearing facsimile signatures which will be furnished to transfer agents of all listed securities together with notice of the appointment.

Amend the last paragraph of Rule 209 to read as follows:

Each signature to a power of substitution executed by other than a member, member organization, Stock Clearing Corporation, *National Securities Clearing Corporation* or a nominee referred to in this Rule shall be guaranteed in like manner.

Amend the first paragraph of Rule 281 as follows:

Rule 281. When an announcement is made of the suspension of a member or member organization pursuant to the provisions of Article XIII of the Constitution, members or member organizations having Exchange contracts with the suspended member or member organization for the purchase, sale or loan of securities shall, without unnecessary delay, proceed to close such contracts on the Exchange or in the best available market, except insofar as the [By-Laws and] Rules of [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation are applicable and provide the method of closing; provided, however, that upon any such suspension, the Board may, in its discretion, suspend the mandatory closeout provisions of this rule and may, in its discretion, reinstate such provisions at such time as it may determine.*

Amend Rule 376 as follows:

Rule 376. Unless otherwise agreed by the parties concerned, all payments between members on account of commissions on business when a principal is given up shall be made through [Stock Clearing Corporation] *the SCC Division of National Securities Clearing Corporation* as prescribed by its [By-Laws and] Rules.

[FR Doc.76-16836 Filed 6-9-76;8:45 am]

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[Release No. 34-12514; File No. SR-OCC-76-3]

## OPTIONS CLEARING CORP.

### Self-Regulatory Organizations

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 May 25, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule changes would establish net capital requirements for Clearing Members which have elected to operate under the alternative net capital requirements set forth in SEC Rule 15c3-1(f) and would increase the initial net capital requirements for Clearing Member applicants which have not so elected.

The proposed rule changes would also require Clearing Members to file copies of their FOCUS reports (SEC Form X-17A-5) with OCC, in lieu of the monthly trial balances previously required. In addition, the proposed rule changes would make certain revisions in OCC's requirements with respect to early warning notices and would change definitions of certain terms used in OCC's net capital rules.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed amendment to Rule 301 is to establish initial net capital requirements for Clearing Member applicants which have elected to operate under the alternative net capital requirements set forth in SEC Rule 15c3-1(f), and to increase OCC's initial net capital requirements for other applicants. The purpose of the proposed amendment to Rule 302 is to establish minimum net capital maintenance requirements for Clearing Members operating under the alternative net capital requirements. The proposed amendment to Rule 303 would establish early warning notice requirements for such Clearing Members, and would change the time of day by which early warning notices are required to be filed by all Clearing Members from 9:00 A.M. (Central Time) to 3:00 P.M. (Central Time). The proposed amendment to Rule 304 would prohibit withdrawals of capital from Clearing Member organizations if the effect would be to reduce the organization's net capital below the early warning level (as opposed to the initial net capital level). The effect of that change, with respect to Clearing Members not electing to operate under the alternative net capital requirements, would be to continue in effect OCC's existing prohibition of withdrawals of capital which would reduce net capital below 8⅓% of aggregate indebtedness. The proposed amendment to Rule 305 would require Clearing Members to file copies of their FOCUS reports (SEC Form X-17A-5) with OCC in lieu of the monthly trial balances required to be filed under Rule 305 in its present form. The amendment to Rule 306 would require net capital and aggregate indebtedness to be computed, for the purposes of the OCC Rules, in accordance with SEC Rule 15c3-1.

In addition, the amendment would change the definition of "Examining Authority" to conform to the definition in the General Instructions to Part II of the FOCUS report, and define certain new terms used in the amendments discussed above. Present Rule 307 would be deleted in its entirety (because its subject matter is now covered by SEC Rule 15c3-1, the provisions of which are incorporated by reference in Rule 306, as proposed to be amended) and present Rule 308 would be renumbered as Rule 307.

The proposed rule changes are designed to protect investors and the public interest by strengthening OCC's initial net capital requirements for Clearing Members and by improving the quality and quantity of financial and related information received from Clearing Members. In addition, the proposed rule changes are intended to foster cooperation and coordination with regulatory authorities and other self-regulatory organizations by conforming OCC's reporting requirements to those imposed by SEC Rule 17a-5, as amended, and by conforming OCC's requirements with respect to the computation of net capital and aggregate indebtedness to those imposed by SEC Rule 15c3-1, as amended.

Comments were not and are not intended to be solicited with respect to the proposed rule changes. However, certain Clearing Members have from time to time objected to furnishing certain information contained in their FOCUS reports to OCC. Copies of three letters on the subject are attached hereto as Exhibits 2a, 2b and 2c. Clearing Members which are publicly held corporations (or subsidiaries of such corporations) have expressed concern at being required to disclose profit and loss information to OCC before that information is disclosed to

the public. OCC believes that prompt receipt of all of the information contained in Clearing Members' FOCUS reports is necessary to enable OCC to discharge its self-regulatory obligations in an effective manner.

OCC does not believe that the proposed rule changes impose any burden on competition. The proposed rule changes do establish initial net capital requirements for Clearing Member applicants electing to operate under the alternative method of capital computation and increase the initial net capital requirements for applicants not so electing. However, OCC believes that the new requirements are necessary and appropriate for the protection of OCC, its Clearing Members and investors, in view of the nature of the obligations undertaken by Clearing Members of OCC.

On or before July 19, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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, Securities and Exchange 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 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 July 1, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JUNE 3, 1976.

TEXT OF PROPOSED RULE CHANGE

INITIAL NET CAPITAL

RULE 301. Every Clearing Member shall have an initial net capital of not less than [the greater of] $150,000. [or 8⅓ per cent of such Clearing Member's aggregate indebtedness.] *Every Clearing Member which has not elected to operate pursuant to the alternative net capital requirements shall also have an initial net capital of not less than 12½ per cent of such Clearing Member's aggregate indebtedness. Every Clearing Member electing to operate pursuant to the alternative net capital requirements shall also have an initial net capital of not less than 7 percent of its aggregate debit items.*

MINIMUM NET CAPITAL

RULE 302. No Exchange transaction shall be cleared by or through any Clearing Member at any time when such Clearing Member's net capital is less than the greater of $100,000 or *(in the case of a Clearing Member not electing to operate pursuant to the alternative net capital requirements)* 6⅔ per cent of its aggregate indebtedness[.] or *(in the case of a Clearing Member electing to operate pursuant to the alternative net capital requirements) 4 per cent of its aggregate debit items.*

EARLY WARNING NOTICE

RULE 303. A clearing Member shall notify the Corporation promptly, and in any event prior to [9:00 A.M.] *3:00 P.M.* Central Time ([10:00 A.M.] *4:00 P.M.* Eastern Time) of the following business day, if such Clearing Member's net capital shall become less than the greater of $150,000, or *(in the case of a Clearing Member not electing to operate pursuant to the alternative net capital requirements)* 8⅓ percent of its aggregate indebtedness[.] or *(in the case of a Clearing Member electing to operate pursuant to the alternative net capital requirements) 6 percent of its aggregate debit items.*

RESTRICTIONS ON DISTRIBUTIONS

RULE 304. No Clearing Member shall withdraw any funds from any subordinated loan account (whether at the maturity of the subordinated loan or otherwise) or out of the accounts of partners (if such accounts are included as part of the net capital of the Clearing Member) and no Clearing Member shall make any payment, whether by dividend or distribution or otherwise, to its stockholders or partners if the effect of such payments would be to reduce the net capital of the Clearing Member below the [initial net capital required by Rule 301] *early warning levels specified by Rule 303* hereof.

[TRIAL BALANCES] REPORTS

RULE 305. Every Clearing Member *who clears or carries customer accounts* shall file with the Corporation [at least once monthly, a trial balance including a detailed computation of such Clearing Member's net capital.] *a true and complete copy of Part I of Securities and Exchange Commission Form X–17A–5 within 10 business days after the end of each month. Every Clearing Member shall file with the Corporation a true and complete copy of Part II (or Part IIA in the case of a Clearing Member which files Part IIA with the Securities and Exchange Commission or its designated Examining Authority in lieu of Part II) of Securities and Exchange Commission Form X–17A–5 within 17 business days after the end of each calendar quarter and within 17 business days after the date selected for the annual audit of financial statements where said date is other than a calendar quarter. Notwithstanding the foregoing, no Clearing Member shall be required to file with the Corporation Part I or Part II or IIA of Form X–17A–5 prior to the earlier of (i) the date when such Part is filed with the Clearing Member's designated Examining Authority, or (ii) the date when such Part is required to be filed with such Examining Authority pursuant to the rules and regulations of the Securities and Exchange Commission and the procedures of such Examining Authority and any extensions of time duly granted to the Clearing Member thereunder. In the event the designated Examining Authority of any Clearing Member shall at any time require such Clearing Member to file any of the foregoing reports with such Examinihg Authority on a more frequent basis, then such Clearing Member shall file with the Corporation a true and complete copy of each such report at the same time it is filed with the designated Examining Authority.* The Corporation may require any Clearing Member at any time [to make more frequent net capital computations or] to file with the Corporation *the above reports on a more frequent basis or such other net capital requirements" shall mean the requirements set forth in paragraph (f) of said Rule 15c3–1. Except as otherwise limited by said paragraph (f), the term "aggregate debit items" shall be computed for a Clearing Member in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Securities and Exchange Commission Rule 15c3–3). The term "Examining Authority" of a Clearing Member shall have the meaning set forth in the General Instructions to Part II of Securities and Exchange Commission Form X–17A–5. For the purpose of this Chapter III only, the term "customer" shall have the meaning set forth in paragraph (c)(6) of said Rule 15c3–1.*

POSITIONS IN MARKET-MAKER'S AND SPECIALIST'S ACCOUNTS

RULE 307. With respect to any position in option contracts maintained in any *reports or* financial statements in such *form or* detail as may be prescribed by the Corporation.

DEFINITIONS

RULE 306. The terms "net capital" and "aggregate indebtedness" shall be computed for a Clearing Member in accordance with [the rules of the self-regulatory organization which is the examining authority for the Clearing Member pursuant to the provisions of the Securities Investor Protection Act of 1970 (the "examining authority") ex-

cept that (a) the deduction in respect of the market values of long and short futures contracts in commodities carried for the accounts of customers shall be ½% instead of 1½%, and (b) the deduction in respect of positions in Market-Maker's and specialist's accounts shall be as set forth in Rule 307.] *Securities and Exchange Commission Rule 15c3–1.* The term "alternative Market Maker's account, specialist's account or combined Market-Maker's or specialists' account carried by a Clearing Member, the Clearing Member shall adjust its net capital by adding the credit balance (if any) and the current market value of all securities (including option contracts) held in a long position in such account, by deducting the debit balance (if any) and the current market value of all securities (including option contracts) held in a short position in such account, by deducting the percentage charges required by the rules of the examining authority in respect of the positions in the account in securities other than option contracts, and by deducting 130 per cent of the market value of each option contract held in a short position in such account and 30 per cent of the market value of each option contract held in a long position in such account; provided, however, that in the case long positions and short positions in the same class of options are maintained in such account, the deduction shall be the greater of (a) 30 per cent of the market value of such long positions or (b) 130 per cent of the market value of such long positions; and provided, further, that in no event shall this Rule 307 result in increasing the net capital of such Clearing Member.]

AUDITS

RULE [308.] *307.* The financial books and records of every Clearing Member shall be audited at least once annually by a firm of independent public accountants satisfactory to the Corporation, and a report thereof shall be filed with the Corporation in such form as the Corporation may prescribe.

EXHIBIT 2A

MARCH 30, 1976.

THE OPTION CLEARING CORPORATION,
*6150 Sears Tower,*
*233 So. Wacker Drive,*
*Chicago, Illinois 60606*
(Attention: Mr. George Janos).

DEAR SIR: Enclosed herewith please find the Focus Report as of February 27, 1976. The Firm has been profitable for the period.

In connection with the above, we wish to emphasize that the figures contained in the Focus Report are to be treated as confidential and are submitted to you in your capacity as a regulatory agency.

Very truly yours,
MERRILL LYNCH, PIERCE, FENNER, & SMITH, INC.,
J. V. BRULL,
*Manager, Financial Reporting Department.*

JVB/sc
Enc.

EXHIBIT 2B

APRIL 5, 1976.

OPTIONS CLEARING CORP.,
*Room 6105,*
*Sears Tower,*
*Chicago, Illinois 60606*

(Attention: Mr. George Janos, Director of Compliance).

GENTLEMEN: This letter has been requested by your Mr. Beck, pursuant to our conversation of April 2.

We have filed copies of our FOCUS reports with you, as requested, although we fail to see the regulatory need for such filing. It is our understanding that one of the purposes of FOCUS was to reduce the extent of regulatory reporting, by only requiring filings with the broker-dealer's principle exchange and with the S.E.C. It is our strong belief that such filings should satisfy all regulatory needs.

Although we will provide you with copies of FOCUS, Smith Barney, Harris Upham & Co. Incorporated is not willing to disclose its monthly earnings to any further audience than already required by the N.Y.S.E. and S.E.C. While we can appreciate your need for this information from smaller, purely over-the-counter broker-dealers, we feel that any member of the N.Y.S.E. should be exempt from this requirement.

We trust that this satisfactorily explains our position.

Very truly yours,
ROBERT B. KANE,
*Vice President & Controller.*

EXHIBIT 2C

APRIL 28, 1976.

MR. GEORGE F. JANOS,
*Director of Compliance, The Options Clearing Corporation, 6150 Sears Tower, 233 S. Drive, Chicago, Illinois 60606.*

DEAR MR. JANOS: Goldman, Sachs & Co. has, on a monthly basis, for the past several years been sending the Options Clearing Corporation that portion of the Joint Regulatory Report which contains balance sheet and capital computation information. We have never included P & L information with our monthly filing, but have indicated whether we were profitable for the month. Where we were not profitable we would indicate the amount of such loss. It is our intention to continue this procedure with the advent of the FOCUS Report in the belief that this information meets the requirements of the by-laws of the Options Clearing Corporation.

Goldman Sachs justifiably enjoys a reputation of one of the best and most strongly capitalized Firms in the industry as is reflected in our most recent audited financial statement, a copy of which I have enclosed. As a privately held partnership, we regard our P & L information as highly confidential and would be extremely upset if this information became widely known. As a result, we feel strongly that unless there is some demonstrated need for our monthly P & L figures, beyond that which I have described above, our financial filing should be sufficient to meet the many regulatory requirements to which we are subject.

Please let me know if you have any questions or need any additional information.

Very truly yours,
ROBERT A. FRIEDMAN.

RAF:aa
Encl.

[FR Doc.76–16835 Filed 6–9–76;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 65]

### ASSIGNMENT OF HEARINGS

JUNE 7, 1976.

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 136786 (Sub 91), Robco Transportation, Inc. now being assigned July 23, 1976 (1 day) at Omaha, Nebraska in a hearing room to be later designated.

MC 59856 Sub 65, Salt Creek Freightways, now being assigned September 27, 1976, (1 Week), at Great Falls, Montana, in a hearing room to be later designated.

MC-C-9002, Crouse Cartage Company—Investigation and Revocation of Certificates, now assigned July 23, 1976, at Omaha, Nebr. is potponed indefinitely.

MC-C-8884, Centroport Drayage, Inc. Westwind Africa Line Limited, and Southern Star Shipping Co., Inc.—Investigation of Operations, now assigned July 26, 1976, at New Orleans, La., is canceled.

MC 133194 (Sub-No. 3), Woodline, Inc., now being assigned September 13, 1976 (2 weeks), at Little Rock, Ark., in a hearing to be later designated.

MC 38536 Sub 2, Coast Cartage Co., now being assigned September 13, 1976, at the Office of Interstate Commerce Commission, Washington, D.C.

MC 113495 Sub 73, Gregory heavy Haulers, Inc., now being assigned September 9, 1976, at the Offices of the Interstate Commerce, Commission, Washington, D.C.

MC-F 12743, The Chief Freight Lines Company dba Chief Freight Lines—Purchase—W. V. Williams dba Williams Transport now assigned July 19, 1976 (5 days) at Kansas City, Missouri and will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 136343 (Sub 65), Milton Transportation, Inc. now assigned July 13, 1976 (1 day) at Columbus, Missouri and will be held in Room 235, Federal Building & U.S. Courthouse, 85 Marconi Boulevard.

MC 114028 (Sub 22), Rowley Interstate Transportation Company, Inc. now assigned July 16, 1976 (1 day) at Kansas City, Missouri and will be held in Room 609, Federal Office Building, 911 Walnut Street. AB 6 (Sub 18), Burlington Northern Inc., Abandonment Between Lamoni and Mount Ayr, In Ringgold and Decatur Counties, Iowa now assigned July 13, 1976 (2 days) at Mount Ayr, Iowa and will be held at the Courthouse Assembly Room, Ringo County Courthouse.

MC-C 8920, Price Hill Coach Line, Inc. vs. David P. White dba Student Charter Service now assigned July 19, 1976 (2 days) at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC-C 8754, Price Hill Coach Line, Inc. vs. Megacity Transit Lines Inc. now assigned July 19, 1976 (2 days) at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 136371 (Sub 16), Concord Trucking Co., Inc. now assigned July 16, 1976 (1 day) at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 123407 (Sub 273), Sawyer Transport, Inc. now assigned July 15, 1976 (1 day) at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 119632 (Sub 64), Reed Lines, Inc. now assigned July 21, 1976 (3 days) at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 33426 (Sub 6), Fuller Transportation, Inc. now assigned July 12, 1976 (2 weeks) at Columbia, South Carolina and will be held at the Municipal Court, 811 Washington Street.

MC 72285 (Sub 11), Motor Transport Company, now assigned July 12, 1976 (1 week) at Madison, Wisconsin and will be held at Room 468, Wisconsin Public Service Commission, Hillfarm State Office Building, 4802 Sheboygan Avenue.

MC 125113 (Sub 4), Christman Trucking Corporation now assigned July 26, 1976 (1 week) at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 119774 (Sub 88), Eagle Trucking Company now assigned July 26, 1976 (1 week) at Dallas, Texas and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 134323 (Sub 80), Jay Lines, Inc. now assigned July 20, 1976 (1 day) at Dallas, Texas and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 107678 (Sub 59), Hill & Hill Truck Line, Inc. now assigned July 21, 1976 (3 days) at Dallas, Texas and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 130342, Consolidated Tours, Inc. now assigned July 19, 1976 (1 week) at St. Paul, Minnesota and will be held in Court Room 2, Federal Building & U.S. Courthouse, 316 North Roberts.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-16899 Filed 6-9-76;8:45 am]

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[Ex Parte No. MC-37 (Sub-No. 28)]

### COMMERCIAL ZONE

#### Evansville, Ind.

Joint Petitioners: Indiana Port Commission and the State of Indiana.

Petitioners' representatives: Thomas G. Woodall, Moshman Associates, Inc., 6400 Goldsboro Road, Washington, D.C. 20034; William E. Daily, Deputy Attorney General, State of Indiana, Indianapolis, Ind. 46204.

By joint petition filed April 27, 1976, the above-named petitioners request that the Commission institute a rule-making proceeding for the purpose of redefining the limits of the Evansville, Ind., commercial zone, which is presently defined by reference to the population-mileage formula at 49 CFR 1048.101. Petitioners request that the Evansville commercial zone be redefined to include: (a) the city of Evansville and that area lying within 5 miles of its corporate limits, (b) the city of Mt. Vernon, Ind., and that area lying within 3 miles of its corporate limits, and (c) an intervening corridor bounded by lines running parallel with Indiana Highway 62 at a distance of 3 miles to the north and 3 miles to the south of Indiana Highway 62.

Petitioners are directed to submit detailed maps of the areas proposed for inclusion within the proposed commercial zone. The proposed action is not expected to significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. No oral hearing is contemplated at this time, but anyone wishing to make representations in favor, or against the relief sought in the petition may do so by the submission of written data, views, or arguments. An original and seven copies of such data, views, or arguments shall be filed with this Commission on or before July 27, 1976. A copy of each representative should be served upon petitioners' representatives. Written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-16903 Filed 6-9-76;8:45 am]

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[EX PARTE NO. MC-7 (Sub-No. 1)]

### COMMERCIAL ZONES AND TERMINAL AREAS

#### Washington, D.C.

Petitioner: Montgomery County, Md. Petitioner's representative: Charles Ephraim, Ephraim and Polydoroff, Suite 600, 1250 Connecticut Avenue, NW., Washington, D.C. 20036.

By petition filed June 1, 1976, the above-named petitioner requests that the Commission institute a rule-making proceeding for the purpose of redefining the limits of the Washington, D.C., commercial zone. The present description of the Washington, D.C., commercial zone can be found at 49 CFR 1048.4. Petitioner desires to change the following pertinent portion of that definition:

* * * thence west on Maryland Highway 28 to its junction with Shady Grove Road, thence northeast on Shady Grove Road approximately 2.7 miles to Crabbs Branch * * *

to read as follows:

* * * thence west on Maryland Highway 28 to its junction with Shady Grove Road, thence northeasterly on Shady Grove Road

to its junction with Briardale Road, thence southeasterly on Briardale Road to its junction with Redland Road, thence southwesterly on Redland Road to Crabbs Branch * * *

Petitioner is directed to submit a detailed street map of the areas proposed for inclusion within the proposed commercial zone. The proposed action is not expected to significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. No oral hearing is contemplated at this time, but anyone wishing to make representations in favor, or against the relief sought in the petition may do so by the submission of written data, views, or arguments. An original and seven copies of such data, views, or arguments shall be filed with this Commission on or before July 12, 1976. A copy of each representation should be served upon petitioner's representative. Written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-16904 Filed 6-9-76;8:45 am]

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[Notice No. 269]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. FD-28191, filed May 17, 1976. Transferee: ALOHA FREIGHT FORWARDERS, INC., 13901 Mica Street, Santa Fe Springs, California 90670. Transferor: ALOHA CONSOLIDATORS INTERNATIONAL, 13901 Mica Street, Santa Fe Springs, California 90670. Applicants' representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, California, 90017. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Fourth Amended Permit and Order No. FF-269 and Sub Numbers thereunder, issued July 31, 1973, as corrected September 13, 1973, as follows: General Commodities (except household goods as defined by the Commission, unaccompanied baggage and used automobiles), Between points in California and Hawaii; General Commodities (except household goods, as defined by the Commission), between points in Los Angeles, Orange, Riverside and San Bernardino Counties, Calif., on the one hand, and, on the other, points in Hawaii; General Commodities (except household goods as defined by the Commission, unaccompanied baggage and used automobiles), between points in Hawaii, on the one hand, and, on the other, points in Oregon (except Medford), and Washington. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority.

No. MC-FC-76525, filed April 14, 1976. Transferee: J. P. OSBORNE, III, doing business as J. O. IRRIGATION, Seminole, Texas 79360. Transferor: WILEY REYNOLDS, SR. and WILEY REYNOLDS, JR., a partnership, doing business as SHOE NAIL SUPPLY, Pampa, Texas 79065. Applicant's representative: Charles J. Kimball, Kimball and Williams, 350 Capitol Life Bldg., Denver, Colo. 80203. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 139135 (Sub-No. 1), issued December 23, 1974, as follows: Meat scraps, bone meal, meat meal, and blood meal, in bulk, from Clovis, N. Mex., to points in Texas, Oklahoma, Arkansas, and Missouri and from Pampa, Tex., to points in Olkahoma, Arkansas, and Missouri, subject to certain restrictions. Transferee presently holds no authority from this Commission.

No. MC-FC-76552, filed June 4, 1976. Transferee: LANCASTER LIMOUSINE SERIVCE, LTD., 228 East Maine St., Mount Joy, Pa. 17552. Transferor: ANDREW F. REYMER, doing business as LANCASTER LIMOUSINE SERVICE, 228 East Main St., Mount Joy, Pa. Applicant's representative: William A. Chesnutt, Esq., 1776 F Street, NW., Washington, D.C. 20006. Authority sought for purchase of transferee of the operating rights of transferor, as set forth in Certificate No. MC-138981 (Sub-No. 2), issued May 7, 1975, as follows: passengers and their baggage, in non-scheduled door-to-door service, limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver thereof, and not including children under 10 years of age who do not occupy a seat or seats in special operations, between points in Lancaster County, Pa., on the one hand, and, on the other, the Washington National and Dulles International Airport at or near Washington, D.C., Friendship International Airport at or near Baltimore, Md., Newark Airport at or near Newark, N.J., John F. Kennedy International and La Guardia Airports, at or near New York, N.Y. the dock facilities of New York, N.Y., Port Authority at the New York, N.Y., and the dock facilities at the Baltimore, Md., Port Authority at Baltimore, Md., restricted to the transportation of passengers and baggage having a prior or subsequent movement by air or water. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-76604, filed May 26, 1976. Transferee: PAUL LESTER HIGGINS, doing business as WEIRTON TRANSFER, 311 Center Street, Cove Station, Weirton, West Virginia 26062. Transferor: GEORGE J. BOND, doing business as BOND MOVING & STORAGE, 312 N. 7th Street, Steubenville, Ohio 43952. Applicants' attorneys: James R. Stiverson and John L. Alden, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC-47374 and MC-47374 (Sub-No. 2), filed March 21, 1949 and December 4, 1957, respectively, as follows: specified commodities and household goods, from specified points in West Virginia and Ohio to specified points in West Virginia, Ohio and Maryland; and household goods, office furniture and equipment, and store fixtures, between Steubenville, Ohio and points within 25 miles thereof, on the one hand, and, on the other, points in Indiana, Michigan, Pennsylvania and West Virginia. Transferee is presently authorized to operate as a common carrier under Certificate No. MC-4739, issued September 30, 1966. Application has not been filed for temporary authority under Section 210a(b).

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-16901 Filed 6-9-76;8:45 am]

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[Notice No. 268]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JUNE 10, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 30, 1976. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76115. By order entered June 3, 1976 the Motor Carrier Board approved the transfer to T. E. Andresen, Incorporated, Swampscott, Mass., of the operating rights set forth in Certificate No. MC-34648, issued July 27, 1965, to Harry Edward Spurr, Jr., doing business as Spurr & McKay, Somerville, Mass., authorizing the transportation of household goods, between Somerville, Mass., and points in Massachusetts within 15 miles of Somerville, on the one hand, and, on the other, points in Massachusetts, New Hampshire, Rhode Island, Connecticut, and New York. Thomas E. Andresen, Jr., 67 Stetson Ave., Swampscott, Mass. 01907, representative for applicants.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-16902 Filed 6-9-76;8:45 am]

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[Notice No. 69]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 3, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

### MOTOR CARRIERS OF PROPERTY

No. MC 340 (Sub-No. 39 TA), filed May 24, 1976. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin Street, San Antonio, Tex. 78208. Applicant's representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt Liquor beverages*, except commodities in bulk, in tank vehicles, from San Antonio, Tex., to points in Ohio, Indiana, Illinois, Wisconsin, Lower Michigan, and St. Louis County Mo., and points within a 50-mile radius thereof, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pearl Brewing Company, Inc., 312 Pearl Parkway, San Antonio, Tex. 78296. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400 Federal Bldg., 727 E. Durango, San Antonio, Tex. 78206.

No. MC 830 (Sub-No. 2 TA), filed May 17, 1976. Applicant: MUELLER CARTAGE CO., 2510 Adie Road, Maryland Heights, Mo. 63043. Applicant's representative: Michael C. Kerls (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fired clay brick, concrete and haydite masonry units* by boom truck, from Maryland Heights, Mo., to Wabash, Lawrence, Crawford, Clark, Edgar, Coles, Douglas, Macon, Piatt, Champaign, Vermillion, Dewitty, McLean, Ford, Iroquois, Livingston, Kankakee, Woodford, Tazewell, Peoria, Marshal, Putnam, Stark, Knox, Warren, Henderson, Mercer, Rock Island, Henry, Bureau, La Salle, Grundy, Will, Kendall, DeKalb, Lee, Whiteside, Carroll, Ogle, Kane, McHenry, Boone, Winnebago, Stephenson, Jo-Davies, Lake, Dupage and Cook Counties, Ill., under a continuing contract with Alton Brick Company, for 180 days. Supporting shipper: Alton Brick Company, 2510 Adie Road, Maryland Heights, Mo. 63043. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 2002 (Sub-No. 13 TA), filed April 14, 1976. Applicant. PHILIPP TRANSIT LINES, INC., 1804-12 East 5th Street, P.O. Box 358, Washington, Mo. 63090. Applicant's representative: Lucy Kennard, 910 Brookfield Building, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Kansas City, Kans., to points in Missouri East of Highway 63 and South of Interstate 70, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Continental Processors, Inc. P.O. Box 414, Lafayette, Calif. 94549, Inland Storage Distribution Center 6500 Inland Drive, Kansas City, Kans. 66110. Send protests to: District Supervisor, J. P. Werthann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 11722 (Sub-No. 51 TA), filed May 20, 1976. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, Wash. 98953. Applicant's representative: Philip G. Skofstad, 18448 S. E. Pine St., Portland, Oreg. 97233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and combination metal and fibreboard cans and can ends* from Junction City, Portland, Astoria and Salem, Oreg. to points in Washington and Idaho; and from Walla Walla, Moses Lake, Yakima, Seattle and Olympia, Wash. to points in Oregon and Idaho, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Can Company, 10200 N. Lombard, Portland, Oregon, 97203. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 14107 (Sub-No. 1TA), filed May 18, 1976. Applicant: W. M. GIRVAN, INC., 65 Railroad Avenue, Albany, N.Y. 12205. Applicant's representative: Neil D. Breslin, Twin Towers-99, Washington Ave., Albany, N.Y. 12210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between East Hartford, Conn., on the one hand, and, on the other, points and places within the territory bounded by a line beginning at Rouses Point, N.Y., and extending west along the boundary line of the U.S. and Canada to Fort Covington, N.Y., thence south through Bombay, Saint Regis Falls, Tupper Lake, Blue Mountain Lake, Lake Pleasant, Little Falls, Richfield Springs, Oneonta, Meredith, Fleischmanns, East Branch, and Livingston Manor to Liberty, N.Y., thence east through Ellenville, Marlboro, Poughkeepsie, and Dover Plains to Amenia, N.Y., thence in a northeasterly direction to Norfolk, Conn., thence north through Lee, Mass., Hindsdale, West Hawley, and Zoar, Mass., Searsburg, Vt., Windham, Weston, Summith, Stockbridge, and East Warren to Waterbury, Vt., thence east to West Danville, Vt., thence north through Irasburg to North Troy, Vt., and thence west along the boundary of the U.S. and Canada to Rouses Point, under a continuing contract with The Great Atlantic & Tea Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Great Atlantic & Tea Co., Inc., 2 Paragon Drive, Mont-

vale, N.J. 07645. Send protests to: Robert A. Radler, District Supervisor, 518 Federal Building, P.O. Box 1167, Albany, N.Y. 12201.

No. MC 52704 (Sub-No. 129TA), filed May 19, 1976. Applicant: GLEN MC-CLENDON TRUCKING COMPANY INC., Post Office Drawer H, Opelika Highway, LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St., N.W., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper* (except in bulk), from the plantsite of Bowater Southern Paper Corporation at Calhoun, Tenn., to points in Georgia and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bowater Southern Paper Corporation, Calhoun, Tenn. 37309. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616–2121 Building, Birmingham, Ala. 35203.

No. MC 52871 (Sub-No. 4TA), filed May 21, 1976. Applicant: OVERCASH TRANSFER, INC., P.O. Box 3117, C.R.S., Rock Hill, S.C. 29730. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. N.W., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, veneer, fiberboard and hardboard* from points in Orangeburg and Colleton Counties, S.C., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, Delaware, Maryland, Pennsylvania, Ohio and the District of Columbia, under a continuing contract with Holly Hill Lumber Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Holly Hill Lumber Company, Holly Hill, S.C. 29059. Send protests to: E. E. Strotheid, District Supervisor, ICC, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 61396 (Sub-No. 310 TA), filed May 27, 1976. Applicant: HERMAN BROS, INC., 2565 St. Mary's Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients*, in bulk, in tank vehicles, from the plantsite and storage facilities of Occidental Chemical Co. at or near Grant, Nebr., to points in Kansas, Colorado, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mike Gonzales, Manager-Motor Transportation, Occidental Chemical Co. 2000 South Post Oak Road, P.O. Box 1185, Houston, Tex. 77001. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 106674 (Sub-No. 196 TA), filed May 18, 1976. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baled shavings, bagged sawdust, and wood residuals*, from Savannah, Tenn. to Bearden, Camden, Little Rock, and Stephens, Ark.; Auburn, Carbondale, Champaign, Chicago, Collinsville, Decatur, Joliet, Mt. Carmel, Red Bud, and Springfield, Ill., Murray, Ky., New Orleans and Slidell, La., Meridian, Miss., and Joplin, Monett, and St. Louis, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert L. Ciuferi Sawdust Milling, Inc., 314 West Main Street, Collinsville, Ill. 62234. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 204, Fort Wayne, Ind. 46802.

No. MC 107496 (Sub-No. 1031 TA), filed May 21, 1976. Applicant: RUAN TRANSPORT CORP., 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bags, from Independence, Kans. to Wood River, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 109821 (Sub-No. 46 TA), filed May 21, 1976. Applicant: H. W. TAYNTON COMPANY, INC., 40 Main Street, Wellsboro, Pa. 16901. Applicant's representative: Dewey T. Whitford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing, heating, and electrical supplies and equipment* used in the sale and distribution thereof (except in bulk), between the facilities of Raub Supply Company, located in Olean, N.Y. and points in Pennsylvania, for 180 days. Supporting shipper: Raub Supply Company, 631 N. Union Street Ext., Olean, N.Y. 14760. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 115311 (Sub-No. 188TA), filed May 24, 1976. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials* (except in bulk); rovings or strands, glass fibre; mats or matting, glass fibre, from the facilities of Certain-Teed Products Corporation located at or near Athens, Ga., to points in Texas, Missouri, Illinois, Ohio, Pennsylvania, New Jersey and Delaware, for 180 days. Supporting shipper: Certain-Teed Products Corporation, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commisison, 1252 W. Peachtree St., N.W., Rm. 546, Atlanta, Ga. 30309.

No. MC 116073 (Sub-No. 323TA), filed May 17, 1976. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Aven., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movement, and *buildings*, from Elkhart, near Howe and Goshen, Ind., to points in Illinois, Indiana, Kentucky, Lower Michigan, Ohio and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Skyline Corporation, 2520 Bypass Road, Elkhart, Ind. 46514. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116519 (Sub-No. 34 TA), filed May 19, 1976. Applicant: FREDERICK TRANSPORT LTD., R.R. 6, Chatham, Ontario, Canada. Applicant's representative: Jeremy Kahn, 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors*, except truck tractors, and *attachments and equipment* designed for use with such articles, when moving in mixed loads therewith, from the warehouse and facilities of Allis-Chalmers Corporation at or near Norfolk, Va., to points on the United States-Canada International Boundary line located in New York, Maine, Vermont and Michigan. Restriction: The authority granted herein is restricted to the transportation of shipments moving in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allis-Chalmers Corporation, Manager, Corporate Transportation, Ralph E. Hallock, P.O. Box 512, Milwaukee, Wis. 53201. Send protests to: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 123383 (Sub-No. 77 TA), filed May 24, 1976. Applicant: BOYLE BROTHERS, INC., RD. 2, Box 329C, Medford, N.J. 08055. Applicant's representative: Chandler L. Van Orman, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, paperboard and paperboard products*, from Lynchburg, Va. to points in Connecticut, Delaware, Maine,

Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia, for 180 days. Supporting shippers: Weyerhaeuser Company, 201 Dexter Street, West Chesapeake, Va. 23324. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 123675 (Sub-No. 2 TA), filed May 21, 1976. Applicant: ELI I. SOLDIER and JAMES J. SOLDIER, a partnership, doing business as, SOLDIER BROS. AUTO BODY TRANSIT LINES, 614 Paine Avenue, Toledo, Ohio 43605. Applicant's representative: Arthur R. Cline, 420 Security Building, Toledo, Ohio 43604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Railway Passenger Car Seats, set up, wrapped*, from Toledo, Ohio, to Philadelphia, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The City Auto Stamping Co., Division of Sheller-Globe Corporation, Lint and Dura Avenues, Toledo, Ohio 43612. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, ICC, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio, 43604.

No. MC 124821 (Sub-No. 19 TA), filed May 20, 1976. Applicant: WILLIAM GILCHRIST, 105 N. Keyser Ave., Old Forge, Pa. 18518. Applicant's representative: Joseph F. Hoary, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass lens blanks*, from Duryea, Pa., to South Bridge, Mass., and Liverly and Petersburg, Va., for 180 days. Supporting shipper: Schott Optical Glass, Inc. 400 York Avenue, Duryea, Pa. 18642. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U. S. Post Office Building, Scranton, Pa. 18503.

No. MC 126118 (Sub-No. 20 TA), filed May 17, 1976. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Ken Adams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Columbus, Ohio and its commercial zone to Johnson City, Tenn. and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Stuart Wood, President, Holston Distributing Company, P.O. Box 1575 Johnson City, Tenn. 37601. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, Lincoln, Nebr. 68508.

No. MC 127411 (Sub-No. 3 TA), filed May 24, 1976. Applicant: KERDELL WITTMIER, doing business as, WITTMIER TRUCKING SERVICE, Napoleon, N. Dak. 58561. Applicant's representative: Kerdell Wittmier (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, from St. Paul, Minn., to Spokane, Wash., under a continuing contract with Northwest Distributors, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Northwest Distributors, Inc., E. 202 Riverside, Spokane, Wash. 99202. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340 Fargo, N. Dak. 58102.

No. MC 135082 (Sub-No. 28 TA), filed May 11, 1976. Applicant: BURSCH TRUCKING, INC., doing business as, ROADRUNNER TRUCKING, INC., 415 Rankin Road, N.E., Post Office Box 26784, Albuquerque, N. Mex. 87125. Applicant's representative: Don F. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baled waste paper* from Los Angeles County, Orange County, and San Bernardino County, Calif., to Navajo County, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwest Forest Industries, 3443 North Central Avenue, Phoenix, Ariz. 85012. Send protests to: John H. Kirkemo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, SW, Albuquerque, N. Mex. 87101.

No. MC 135895 (Sub-No. 8 TA), filed May 17, 1976. Applicant: DON RAY BOYD AND JACKIE ROGERS, partners, doing business as, B & R DRAYAGE CO., North Bierdeman Road, Jackson, Miss. 39208. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Non-electric, reflective traffic control products and glass abrasive products* (except commodities in bulk and commodities which because of size, weight or value require the use of special equipment) between the plant sites and warehouses of Cataphote Division, Ferro Corporation at or near Flowood, Rankin County, Miss., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, Oklahoma, South Carolina, Tennessee and Texas, and (2) *equipment, machinery, materials and supplies* used in the manufacture of non-electric reflective traffic control products and glass abrasive products (except commodities which because of size, weight or value require the use of special equipment) between points in Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, Oklahoma, Tennessee, and Texas, on the one hand, and, on the other, the plant sites and warehouses of Cataphote Division, Ferro Corporation located at or near Flowood, Rankin County, Miss., for 180 days. Supporting shipper: Cataphote Division, Ferro Corporation, P.O. Box 2369, Jackson, Miss. 39205. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 136762 (Sub-No. 7 TA), filed May 24, 1976. Applicant: OSBORNE HIGHWAY EXPRESS CORP., 125 University Ave., Berkeley, Calif. 94710. Applicant's representative: James Gulseth (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplace logs, extruded sawdust and parafin combined*, from Stockton and the Port of Stockton, Calif., to points in Oregon, Washington and the panhandle of Idaho (Grangeville and north) for 180 days. Supporting shipper: Duraflame, Inc. 385 Foster City Boulevard, Foster City, Calif. 94404. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

MC 139336 (Sub-No. 8TA) (correction), filed January 26, 1976, published in the FEDERAL REGISTER issue of February 20, 1976, and republished as corrected this issue. Applicant: TRANSTATES, INC., 2449 Marseilles Way, Costa Mesa, Calif. 92626. Applicant's representative: David P. Christianson, 606 South Olive Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aircraft tires*, for the account of Thompson Aircraft Tire Corporation, between San Francisco, Calif., on the one hand, and, on the other, Minneapolis, Minn., Kansas City, Kans.; Denver, Colo., and Chicago, Ill., under a continuing contract or contracts with Thompson Aircraft Tire Corporation of South San Francisco, Calif., for 180 days of operating authority. Supporting shippers: Thompson Aircraft Tire Corporation, 160 Beacon Street, South San Francisco, Calif. Send protests to: Transportation Assistant Mildred I. Price, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

NOTE.—The purpose of this republication is to indicate that the commodity description above has been modified to read "Aircraft tires" in lieu of "retreaded and new aircraft tires," and the addition of "on the one hand, and, on the other."

No. MC 141141 (Sub-No. 3 TA), filed May 24, 1976. Applicant: NAVAJO LINE, INC., Route 1, Moncure, N.C. 27559. Applicant's representative: Wilmer B. Hill, 666–11th St. N.W., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay products*, (except in bulk), including *brick, ceramic tile, floor tile*, and *wall tile*, (1) from points in Chatham and Wake Counties, N.C. to points in West Virginia and Ohio; and (2) from Nitro, W. Va., Ironton, Ohio, and Minerva, Ohio

to points in North Carolina, South Carolina, and Virginia; (3) from York County, S.C. to points in North Carolina, South Carolina, Virginia, and West Virginia, under a continuing contract with Cherokee Brick Co. of N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cherokee Brick Co. of N.C. 4027 Beryl Rd., Raleigh, N.C. 27606. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, ICC, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 142045 TA, filed May 10, 1976. Applicant: McNEIL TRANSPORT LTD., 147 North Augusta Road, Brockville, Ontario, Canada K6V 2Y1. Applicant's representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* on rolls and *window shades and curtain and drapery rods, fixtures and hardware* between Ogdensburg, N.Y., on the one hand, and, on the other, the Port of Entry on the U.S.-Canada boundary line at or near Ogdensburg, N.Y. Restricted to traffic originating at or destined to points in Canada, for 180 days. Supporting shippers: John Donofrio, General Manager, Standard Shade Roller Div. of Joanna Western Mills Co. Covington Street, Ogdensburg, N.Y. 13669, John E. Hertogs, Vice-Pres., Gen. Manager, Heeshade Company Limited, 132 Railside Road, Don Mills, Ontario, Canada M3A 1A3. Send protests to: Morris H. Gross, Dist. Supvr. Interstate Commerce Commission, Rm. 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-16900 Filed 6-9-76;8:45 am]

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[Notice No. 70]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 4, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 50069 (Sub-No. 509TA), filed May 24, 1976. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 455 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Goolan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochloric acid*, in bulk, in tank vehicles, from Fort Wayne, Ind., and Toledo, Ohio, to points in Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Inland Chemical Corporation 1810 Magnavox Way, Fort Wayne, Ind. 46804. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 88594 (Sub-No. 29TA), filed May 21, 1976. Applicant: CARLETON G. WHITAKER, INC., Rt. 17 Exit 84, Town of Dep., Delaware County, N.Y. 13754. Applicant's representative: Norman Weiss, 2 West 45th St., New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* in vehicles equipped with mechanical refrigeration, from North Lawrence, N.Y., to Springfield and White River Junction, Vt.; North Concord, N.H.; and North Limington and Portland, Maine; * * * moving in conjunction with presently authorized stop-off loads to Framingham, Mass., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sealtest Foods, North Lawrence, N.Y. 12967. Send protests to: Robert A. Radler, District Supervisor, 518 Federal Building, P.O. Box 1167, Albany, N.Y. 12201.

No. MC 103993 (Sub-No. 869TA), filed May 17, 1976. Applicant: MORGAN DRIVE AWAY, INC. 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts, and materials, accessories, and supplies* used in the installation, erection, and construction of buildings, building panels, and building parts, (except commodities in bulk), from the plantsite and storage facilities of Butler Manufacturing Company located at or near Annville, Pa., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, District of Columbia, Kentucky, West Virginia, Virginia, Tennessee, North Carolina, and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Butler Manufacturing Company, 400 North Weaber, P.O. Box F, Annville, Pa. 17003. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne Street, Rm. 204, Ft. Wayne, Ind. 46802.

No. MC 111729 (Sub-No. 658TA), filed May 17, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, audit and accounting media*, between Greenwich, Conn., on the one hand, and, on the other, Falmouth, Maine; Boston, Lexington, Springfield, and Worcester, Mass.; Manchester and Portsmouth, N.H.; Mountainside, Oradell, and Princeton, N.J.; Albany, Binghampton, Blauvelt, Buffalo, Lake Success, New York, Rochestser, Syracuse, Tarrytown, and Woodbury, N.Y.; Erie, Pa., and Providence, R.I., on traffic moving to or from the facilities of Xerox Corporation, Greenwich, Conn., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Xerox Corporation, Route 303, Blauvelt, N.Y. 10913. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 119726 (Sub-No. 70TA) filed May 21, 1976. Applicant: N.A.B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from points in Stone County, Mass. to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Missouri, Texas, Arizona, Tennessee, Alabama (except Mobile, Ala.), Florida, Georgia, North Carolina, South Carolina, and California; and (2) *Materials and supplies* used in the manufacture of paper and paper products, from points in the destination states named in (1) above to points in Stone County, Mass., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dunn Paper Com-

pany, 218 Riverview Street, Port Huron, Miami, 48060. Send protests to: William S. Ennis, Trans. Specialist, Interstate Commerce Commission, Federal Bldg. & U.S. Courthouse, 46 East Ohio Street, Room 426, Indianapolis, Ind. 46204.

No. MC 119726 (Sub-No. 71TA), filed May 20, 1976. Applicant: N.A.B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 East Washington St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, caps and closures therefor*, and *corrugated boxes*, from the plant site of Star City Glass Co., Universal Glass Products Div. at Joliet, Ill., to Louisville, Bardstown, Clermont, Owensboro, Frankfort, Lexington, Stanley and Lawrenceburg, Ky.; Geneva, Portland, Sunman and Lawrenceburg, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Bottle Company, Star City Glass Co. One Bala Cynwyd Plaza, Bala Cynwyd, Pa. 19004. Send protests to: Patrick G. Collins, Interstate Commerce Commission, Federal Bldg. & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 123255 (Sub-No. 74TA), filed May 18, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbers goods*, from Perrysville, Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Miami, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days. Supporting shipper: Mansfield Sanitary, Inc., Perrsville, Ohio, 44864. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 200 Federal Bldg., & U.S. Courthouse, 85 Maroni Boulevard, Columbus, Ohio, 43215.

No. MC 124221 (Sub-No. 55TA), filed May 18, 1976. Applicant: HOWARD BAER, P.O. Box 27, Rt. 98 W., Morton, Ill. 61550. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products and delicatessen products*, from Kroger Dairy Plant facilities at Fort Worth, Tex., to Kroger Dairy Plant facilities at Hazelwood, Mo.; (2) *Empty milk cases* (used), from Kroger warehouse and facilities at North Little Rock, Ark., to Kroger Dairy Plant and facilities at Hazelwood, Mo.: (3) *carbonated beverages*, from the plant site and facilities of Specialized Beverages, Atlanta, Ga., to Kroger distribution facilities at Salem, Va., under a continuing contract with The Kroger Co. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Kroger Co., H. B. deHamel, Mgr. of Distribution Systems, 1014 Vine Street, Cincinnati, Ohio, 45201. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1386, Chicago, Ill., Everett McKinley Dirksen Building, 219 S. Dearborn Street.

No. MC 127651 (Sub-No. 34TA), filed May 18, 1976. Applicant: EVERETT G. ROEHL, INC., East 29th St., P.O. Box 7, Marshfield, Wis. 54449. Applicant's representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden doors*, from the plantsite of Graham Manufacturing Corporation at or near Marshfield, Wis., to points in Minnesota and Iowa, restricted to traffic originating at said plantsite and destined to points in the involved states, for 180 days. Supporting shipper: Graham Manufacturing Corporation, 1920 East 26th St. Marshfield Wis. 54449. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 128273 (Sub-No. 228TA), filed May 18, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, 121 Humboldt St., Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 South Horton, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fittings, fixtures, equipment, materials and supplies*, from Ferguson, Ky., to points in Alabama, Arizona, Connecticut, District of Columbia, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Maryland, Maine, Miami, Minnesota, Mississippi, Missouri, North Carolina, North Dakota, New Hampshire, New Jersey, New York, Nebraska, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Vermont, West Virginia, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Crane Co. 300 Park Avenue, New York, N.Y. 10022. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 133689 Sub-No. 74TA, filed May 21, 1976. Applicant: OVERLAND EXPRESS, INC., 717 First St. S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beverage preparations and additives*, dry (except commodities in bulk), and (2) *commodities*, the transportation of which is otherwise exempt under Section 203 (b) of the Interstate Commerce Act, when moving in mixed loads with the commodities described in (1) above (except commodities in bulk), from Manawa, Wis., and St. Louis Park, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, District of Columbia, Kentucky, Tennessee, North Carolina, South Carolina and Georgia, restricted to traffic originating at the plantsite and storage facilities of Saco Foods, Inc. at the above named origins and destined to the above named destination states, for 180 days. Supporting shipper: Saco Foods, Inc., P.O. Box 5461, Madison, Wis 53705. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55041.

No. MC 134388 (Sub-No. 13TA), filed May 20, 1976. Applicant: HOME RUN, INC., 3 East Wash. St., Jamestown, Ohio 45335. Applicant's representative: Boyde B. Ferris, Law Offices of Muldon, Pemberton & Ferris, 50 West Broad Street, Columbus, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and component parts, materials, supplies and fixtures* used in the erection or assembly of buildings (except buildings in sections when mounted on wheeled undercarriages, and cement), from points in New Jersey, to Bowie and Largo, Md., and Richmond, Va., under a continuing contract with Levitt Residential Communities, Inc. Restricted: to the transportation of shipments originating at the plantsite and facilities of Levitt Residential Communities, Inc. in Camden County, N.J. said operations are limited to a transportation service to be performed under a continuing contract or contracts, with Levitt Residential Communities, Inc., Sicklerville, N.J., for 180 days. Supporting shipper: Jason Griffin, Plant Manager, Levitt Residential Communities, Inc. Rd. #1, Box 975, Sicklerville, N.J. 08081. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 134404 (Sub-No. 27TA), filed May 19, 1976. Applicant: AMERICAN TRANS-FREIGHT INC., P.O. Box 499, South Bound Brook, N.J. 08880. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Calcium carbonate, drugs, chemicals, medi-*

*cines and toilet preparations* (except commodities in bulk), for the account of Miles Laborotories, Inc. (1) from North Adams, Mass., to Trenton, N.J.; (2) from Trenton, N.J. to West Haven, Conn.; (3) from West Haven, Conn., to Gloucester City, N.J., under a continuing contract with Miles Laboratories, Inc., for 180 days. Applicant also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miles Laboratories, Inc., Corporate Traffic Manager—James F. Piechorowski, 1127 Myrtle Street, Elkhart, Ind. 46514. Send protests to: District Supervisor Robert S. H. Vance, Interstate Commerce Commission, 9 Clinton St., Newark, N.Y. 07102.

No. MC 134734 (Sub-No. 30TA), filed May 20, 1976. Applicant:. NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Joseph Winter, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts tools and related advertising materials*, from the plantsite and facilities of Moog Automotive, Inc., at or near Creve Coeur, Mo., to Pierce, Spokane, and King Counties, Wash., Orange, Riverside, Los Angeles, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, Contra Costa, Sacramento, Fresno, Kern, Tulare, and San Joaquin, Counties, Calif.; and Multnomah and Lane Counties, Oreg.; under a continuing contract or contracts with Moog Automotive, Inc., for 180 days. Supporting shipper: Bernard Mellitz, Vice President, Moog Automotive, Inc., P.O. Box 7224, St. Louis, Mo. 63177. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 135705 (Sub-No. 6TA), filed May 21, 1976. Applicant: MELROSE TRUCKING CO., INC., 6360 Raderville Route, Casper, Wyo. 82601. Applicant's representative: John P. Thompson, 450 Capitol Life Center, E. 16th at Grant, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk in tank vehicles, from the Ideal Basic Industries Cement Division Plantsite, located at or near Boettcher Co., to the Wheatland Power Plant Project located approximately six (6) miles north of Wheatland, Wyo., for 180 days. Supporting shippers: Flatiron Pre-Mix Cement Company, P.O. Box 229, Boulder, Colo. 80302, Monolith Portland Midwest Co. Suite 162B, 2480 West 26th Ave. Denver, Colo. 80211., Ideal Basic Industries Cement Division, Ideal Plaza, 950 17th St. P.O. Box 8789, Denver, Colo. 80201. Send protests to: District Supervisor P. A. Naughton, Interstate Commerce Commission Rm 1006 Federal Bldg & Post Office, 100 East "B" Street, Casper, Wyo. 82601.

No. MC 136221 (Sub-No. 5TA), filed May 19, 1976. Applicant: H. L. STANSELL, INC., 1 15 Illinois Avenue, P.O. Box 158, Palm Harbor, Fla. 33653. Applicant's representative: David C. Venable, Suite 805, 666 11th Street, N.W., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients* and (2) *commodities* exempt from economic regulation in mixed shipments with feed and feed ingredients (except in bulk), from the plant site and storage facilities used by Milk Specialities Co., Division of Cudahy Co., at or near East Dundee, Ill., to points in Alabama, Florida, Georgia, and Tennessee, under a continuing contract with Milk Specialties Co., for 180 days. Supporting shipper: Milk Specialties Co., Division of Cudahy Co., P.O. Box 278. E. Dundee, Ill. 60118. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operation, Monterev Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 136408 (Sub-No. 36TA), filed May 19, 1976. Applicant: CARGO CONTRACT CARRIER, CORP., P.O. Box 206, Highway 20, Sioux City, Iowa 51102. Applicant's representative: Bill J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07054. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, polishing and defoaming soaps and compounds, oils, paints, rust* and *paint removing compounds, and disinfectant and water treating compounds* (except in bulk, in tank vehicles), between Romulus, Mich., on the one hand, and, on the other, Omaha, Nebr.; Wichita, Kans.: Kansas City and St. Louis Mo.; Duluth and Minneapolis, Minn.; Davenport, Iowa; Milwaukee, Wis., Chicago, Ill.; Indianapolis and Fort Wayne, Ind.; Grand Rapids, Mich., Cincinnati and Cleveland, Ohio, and Metuchen, N.J., Restriction: Services authorized herein are restricted to a transportation service to be performed under a continuing contract or contracts with Oakite Products, Inc. Berkeley Heights, N.J. and further restricted to services between the plant sites and warehouse facilities of Oakite Products, Inc. named above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John J. Bailey, Traffic Manager, Oakite Products, Inc., 50 Valley Road, Berkeley Heights, N.J. 07922. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 136828 (Sub-No. 9TA), filed May 20, 1976. Applicant: COX & SHAY, INC., P.O. Drawer "O", Pinson, Ala. 35126. Applicant's representative: Louis J. Amato, P.O. Box F, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Republic Steel Corporation, Gadsden, Ala., to points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Republic Steel Corporation, 174 South 26th Street, Gadsden, Ala. 35901 Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616–2121 Building, Birmingham, Ala. 35203.

No. MC 136888 (Sub-No. 8TA), filed May 17, 1976. Applicant: NORMAN & SON, INC., 72520 North 69th Street, Houston, Tex. 77020. Applicant's representative: Timothy Mashburn, 1806 Rio Grande, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Petroleum coke*, in bulk, in dump trailer equipment, from Texas City, Tex., to Port Arthur, Tex., for 180 days. Supporting shipper: Otto Wolff, Inc., 110 S. Dearborn St. Chicago, Ill. 60603. Send protests to: District Supervisor John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg. 515 Rusk, Houston, Tex. 77002.

No. MC 138635 (Sub-No. 24TA), filed May 20, 1976. Applicant: DEL R. AND WESTERN EXPRESS, INC., 650 Eastwood Drive, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, 303 N. Frederick Avenue, Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiber glass* from West Shelby, N.C., Amsterdam, N.Y., and Graham, Tex., to Seattle Wash., and points in its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Durkin Chemicals, Inc., Box 655, Kirkland, Wash. 98033. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm CC 516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 139306 (Sub-No. 6TA), filed May 20, 1976. Applicant: CAROLINA-JOE R. STANAGE doing business as STANAGE TRANSPORTATION, 121 Indian Springs Road, Hot Springs, Ark. 71901. Applicant's representative: Gary E. Thompson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cullet* (broken glass) in bulk, in dump vehicles, between Little Rock, Ark., Paris, Tex., Logan, Ohio, Fairmont, W. Va., Reform, Ala., Salina, Kans., and Owensboro, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Westinghouse Electric Corporation, Roosevelt Road, Little Rock, Ark. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 139468 (Sub-No. 17TA), filed May 19, 1976. Applicant: INTERNATIONAL CONTRACT CARRIER, INC., 6534 Gessner Road, Houston, Tex. 77040. Applicant's representative: Dave Parker, 2310 Colorado State Bank Building, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor

vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down and in sections, *building sections and panels; parts and accessories*, used in manufacture, installation and completion of the commodities indicated above, from the plant site and storage facilities of National Steel Production, at or near LaGrange, Ga., to Alabama, Delaware, Florida, Maryland, Mississippi, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Maine, New Hampshire, Vermont, New York, Ohio, Massachusetts, Connecticut, Rhode Island, under a continuing contract with National Steel Products Co., Inc. Supporting shipper: National Steel Products Co., Inc., P.O. Box 40490, Houston, Tex. 77040. Send protests to: Interstate Commerce Commission, District Supervisor John F. Mensing, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 139615 (Sub-No. 2TA), filed May 19, 1976. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 94, Oskaloosa, Iowa 52577. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery, implements, and equipment*, (2) *industrial* and *construction machinery and equipment*, and (3) *parts, attachments, and accessories* for commodities in parts (1) and (2) from Pella, Iowa, to points in Oregon, California, Montana, Oklahoma, Texas, Michigan, Pennsylvania, New York, New Jersey, Maryland, West Virginia, and North Dakota and Louisiana. Applicant intends to interline with other carriers at points of entry between Canada and the United States on foreign commerce from Pella to points in Canada, for 180 days. Supporting shipper: Vermeer Mfg. Co. Inc., P.O. Box 200, Pella, Iowa, 50219. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309:

No. MC 140677 (Sub-No. 11TA), filed May 20, 1976. Applicant: JOHN T. BREWER, JOHN R. BREWER AND LEWIS L. BREWER doing business as BREWER TRUCKING, 1603 E. Tallent, Rapid City, S. Dak. 57701. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated houses, unassembled and house parts*, from Rothschild, Wis., to points in Wyoming, Colorado and Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Industrial Co. of Steamboat Springs, Inc., P.O. Box 9056, Steamboat Springs, Colo. 80477, R. W. McKenzie, President, SEND PROTESTS TO: District Supervisor J. L. Hammond, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 140677 (Sub-No. 12TA), filed May 20, 1976. Applicant: JOHN T. BREWER, JOHN R. BREWER AND LEWIS L. BREWER doing business as BREWER TRUCKING, 1603 East Tallent, Rapid City, S. Dak. 57701. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Houses, prefabricated, unassembled and house parts*, from Rothschild, Wis., to points in Minnesota, on and south of U.S. Highway 12 and on and west of Interstate Highway 35, for 180 days. Supporting shipper: Golden West Corp. Box 711, Beresford, S. Dak. 57004, Thomas E. Weber, Production Coordinator. Send protests to: District Supervisor J. L. Hammond, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 141429 (Sub-No. 2TA), filed May 20, 1976. Applicant: DEL ACRES RANCH doing business as D. E. LESTER, Old River Road, P.O. Box 776, Natchitoches, La. 71457. Applicant's representative: D. E. Lester (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground dry veneer and plywood trimmings*, in bulk, from the plant sites of Vancouver Plywood Co., Inc., at Florien, La., and Oakdale, La., to Corrigan, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vancouver Plywood Co., Inc. P.O. Box 128, Florien, La. 71429, Louisiana Pacific Corp. P.O. Box 126, Urania, La. 71480. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 9038 U.S. Postal Service Building, 701 Loyola Ave., New Orleans, La. 70113.

No. MC 141911 (Sub-No. TA), filed May 18, 1976. Applicant: ARTHUR D. DeMONTIGNY doing business as DeMONTIGNY TRUCKING, 6509 E. 10th, Spokane, Washington, 99206. Applicant's representative: Arthur D. DeMontigny (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cedar fencing and fencing materials*: From Troy and Calder, Idaho and Superior, Mont., to Arvida, Boulder, Broomfield, Colorado Springs, Fort Collins, Greeley, Lakewood, Littleton, Longmont and Pueblo, Colo., and Murray, Ogden, Orem and Salt Lake City, Utah., for 180 days. Supporting shipper: Idaho Cedar Sales, P.O. Box 398, Troy, Idaho, 83871. Send protests to: L. D. Boone T/S Rm 858, 915 2nd Ave. Seattle, Wash. 98174.

No. MC 141982 (Sub-No. 1TA), filed May 21, 1976. Applicant: LEE GRIPP TRANSFER COMPANY, INC., 600 East 4th Street, Davenport, Iowa 52801. Applicant's representative: Robert Henri Gosselin, 700 West 58th Street, Davenport, Iowa 52807. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores, from Davenport, Iowa to the counties of Rock Island, Whiteside, Carroll, Bureau, Henry, Mercer, Warren, and Knox, Ill., under a continuing contract with J. C. Penney Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. C. Penney Company, Inc., 320 West Kinberly Road, Davenport, Iowa 52806. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 142042 (Sub-No. 1TA), filed May 18, 1976. Applicant: HAROLD E. VOKOUN, doing business as VOKOUN TRUCKING, R. R. #3, Dunkerton, Iowa 50626. Applicant's representative: James L. Wagner, Suite 250 Waterloo Savings Bank, Waterloo, Iowa 50701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients, particularly linseed meal, linseed oil, wheat mids, soybean meal, corn gulton, corn and oats* from Belmon, Mason City, Des Moines, and Cedar Rapids, Iowa, to points in Western Ill., bounded on the East by U.S. #51 and on the South by I–70, under a continuing contract or contracts with Finch Feed Company, Minneapolis, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Finch Feed Company, P.O. Box 15305, Minneapolis, Minn. 55415. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 142053 (Sub-No. 1TA), filed May 17, 1976. Applicant: NORTH GEORGIA BUS LINES, INC., 7410 Perimeter Center East, Atlanta, Ga. 30346. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Express* (shipments weighing 100 pounds or less), between Lavonia and Atlanta, Ga., via Royston, Carnesville, Commerce, Athens, Jefferson, Winder, Lawrenceville, Lilburn and Decatur, via State Hwys. 17, 281, 145, 59, U.S. Hwy. 441, U.S. Hwy. 129, State Hwy. 11, U.S. Hwy. 29, serving intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. There are approximately 17 statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 142070 TA, filed May 19, 1976. Applicant: NEW HAMPSHIRE SECURITY GUARD SERVICE, INC., 548 Mast

Road, Manchester, N.H. 03102. Applicant's representative: Arthur R. Bussiere (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Checks* (not cancelled), *other non-negotiable documents* for computer processing, *inter-company correspondence and computer printed reports*, (1) between the Operations Center of Bank of New Hampshire, N. A. at Manchester, N.H., on the one hand, and, on the other, Shawmut National Bank, Federal National Bank, State Street Bank and First National Bank of Boston at Boston, Mass.; restricted to a transportation service to be performed under a continuing contract or contracts with Bank of New Hampshire, N.A.; (2) between Indian Head Banks, Inc. at Nashua, N.H., and Bellows Falls, Trust Company at Bellows Falls, Vermont, restricted to a transportation service to be performed under a continuing contract or contracts with Indian Head Banks, Inc., for 180 days. Supporting shippers: Bank of New Hampshire, N. A., P.O. Box 600, Manchester, N.H. 03105. Attn: Richard C. Sturgill; Indian Head Banks, Inc., 55 High Street, Nashua, N.H. 03060, Attn: Donald L. McFarland. Send protests to: District Supervisor Ross J. Seymour Bureau of Operations, Interstate Commerce Commission, 208 Federal Building, 55 Pleasant Street, Concord, N.H. 03301.

No. MC 142072 TA filed May 20, 1976. Applicant: PACKARD CONTRACT TRUCKING, INC., 1914 Veverly Place, South Bend, Ind., 46616. Applicant's representative: Bernard E. Packard (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and empty malt beverage containers*, from plantsite of Stroh Brewery at or near Detroit, Mich.; and plantsite of Anheuser-Busch Inc. at or near Columbus, Ohio to South Bend, Ind., under a continuing contract with United Beverage Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United Beverage Company, 840 So. Prairie Ave., South Bend, Ind. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Rm. 204, Fort Wayne, Ind. 46802.

No. MC 142076 TA, filed May 14, 1976. Applicant: DONALD P. AVERILL, P.O. Box 191, Tillamook, Oreg. 97141. Applicant's representative: Donald G. Averill (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Tillamook County, Oreg., to the Port of Garibaldi, Oreg. under a continuing contract with Publishers Paper Company, Tillamook Division, for 180 days. Supporting shipper: Publisher Paper Company-Tillamook Division, P.O. Box 471, Tillamook, Oregon, 97141. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg., 97204.

No. MC 142079 TA, filed May 24, 1976. Applicant: MICHIANA TRANSPORT, INC., P.O. Box 435, South Bend, Ind. 46624. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane and urethane products, materials and supplies*, between Bremen, Ind., and points in Wisconsin, Minnesota, Iowa, Oklahoma, Missouri, Kentucky, Ohio, Pennsylvania and Michigan and Illinois, in non-radial movements, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United Foam Corporation, 1111 West Dewey Street, Bremen, Ind. 46506. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, 345 West Wayne Street, Rm. 204, Fort Wayne, Ind. 46802.

PASSENGER APPLICATION

No. MC 142069 TA filed May 21, 1976. Applicant: CAMIONETAS MODERNAS, 1504 W. 18th Street, Chicago, Ill. 60608. Applicant's representative: Herminia Romero (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, restricted to transportation in van type vehicles not to exceed fourteen seats, between Chicago, Ill., and Laredo, Tex., for 180 days. Supporting shippers: There are approximately 16 statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office names below. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.76-16898 Filed 6-9-76;8:45 am]

[Notice No. 266]

## MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 10, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a (b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76599. By application filed March 4, 1975, CAREY AIRPORT LIMOUSINE SERVICE OF NEW JERSEY, INC., 24 Commerce Street, Newark, N.J., 07102, seeks temporary authority to lease the operating rights of AIRPORT LIMOUSINE SERVICE, INC. (JAY S. MACNEILL, RECEIVER), 683 Frelinghuysen Avenue, Newark, N.J., 07114, under section 210a(b). The transfer to CAREY AIRPORT LIMOUSINE SERVICE OF NEW JERSEY, INC., of the operating rights of AIRPORT LIMOUSINE SERVICE, INC. (JAY S. MACNEILL, RECEIVER), is presently pending.

By the Commission.

ROBERT L. OSWALD, *Secretary*.

[FR Doc.76-16897 Filed 6-9-76;8:45 am]

[Volume 34]

## PERMANENT AUTHORITY PETITIONS AND APPLICATIONS; FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES); RAILROAD ABANDONMENTS; ALTERNATE ROUTE DEVIATION LETTER-NOTICES; AND INTRASTATE APPLICATIONS CONCURRENTLY SEEKING AUTHORITY ON INTERSTATE OR FOREIGN COMMERCE

JUNE 4, 1976.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 43269 (Sub-No. 48), (notice of filing of petition for removal of restriction) filed May 10, 1976. Petitioner: WELLS CARGO, INC., 1775 East 4th Street, P.O. Box 1511, Reno, Nev. 89505. Petitioner's representative: David N. Inwood (same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 43269 (Sub-No. 48), issued December 24, 1974, authorizing transportation, as pertinent, over irregular routes, of *construction materials, supplies, and equipment*, (except petroleum products, in bulk, liquid commodities, in bulk, in tank vehicles, and trucks), and *commodities* which by reason of their size, weight or other physical characteristics, require the use of special equipment, for their transportation, loading, or unloading, between

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

points in Nevada, on the one hand, and, on the other, points in Alpina, Mono and Inyo Counties, Calif., and that part of San Bernardino County, Calif., on and northwest of that certain unnumbered highway from Rice through Milligan, McCoy, and Cadiz to junction U.S. Highway 66, thence westerly along U.S. Highway 66 through Amboy, Bagdad, and Newberry to Barstow, thence westerly along U.S. Highway 466 to junction U.S. Highway 395, and thence northerly along U.S. Highway 395 to junction with the boundary of San Bernardino County, restricted against the transportation of lumber and forest products, cement, plaster, and plaster board between points in the described area of San Bernardino County, Calif., and points in Nevada.

By the instant petition, petitioner seeks to delete from its authority the above restriction.

No. MC 109533 (Sub-No. 36), (notice of filing of petition to add base points) filed May 24, 1976. Petitioner: OVERNITE TRANSPORTATION COMPANY, P.O. Box 1216, 1100 Commerce Rd., Richmond, Va. 23224. Petitioner's representative: Eugene T. Liipfert, Suite 1100, 1660 L St., N.W., Washington, D.C. 20036. Petitioner holds a motor *common carrier* Certificate in No. MC 109533 (Sub-No. 36), issued September 4, 1974, authorizing transportation, as pertinent, over irregular routes, of *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 Alabama within 65 miles of Birmingham, Ala., including Birmingham, on the one hand, and, on the other, points in that part of Georgia on and west of U.S. Highway 129, restricted against the transportation of cement and lime from the origin points of Leeds, Roberta, Ragland, and North Birmingham, Ala.

By the instant petition, petitioner seeks to modify its Certificate by adding Atlanta and Macon, Ga., and Gaffney, S.C. as base points to the above authority.

No. MC 112184 (Sub-No. 40), (notice of filing of petition to add a contracting shipper) filed May 27, 1976. Petitioner: THE MANFREDI MOTOR TRANSIT CO., 11250 Kinsman, Newbury, Ohio 44065. Petitioner's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Petitioner holds a motor *contract carrier* permit in No. MC 112184 (Sub-No. 40), issued November 30, 1973, authorizing transportation over irregular routes, of *corn products*, in bulk (except corn oil, in bulk), from Dayton, Ohio, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract, or contracts, with Cargill Incorporated, located in Dayton, Ohio.

By the instant petition, petitioner seeks to add CAR-MI, Inc., located in Dayton, Ohio as a contracting party.

No. MC 117823 (Sub-No. 32), (notice of filing of petition for modification of certificate) filed May 17, 1976. Petitioner: DUNKLEY REFRIGERATED TRANSPORT, INC., 1915 South 900 West, Salt Lake City, Utah 84104. Petitioner's representative: Lon Rodney Kump, 200 Law Building, 333 East Fourth South, Salt Lake City, Utah 94111. Petitioner holds a motor *common carrier* Certificate in No. MC 117623 (Sub-No. 32), issued January 15, 1969, authorizing transportation over irregular routes, of *foodstuffs* (except frozen foods, bananas, and commodities in bulk), in mechanically refrigerated vehicles, when transported at the same time and in the same vehicle with frozen foods (otherwise authorized), from points in California, to points in Utah.

By the instant petition, petitioner seeks to modify its Certificate by deleting the above restriction "when transported at the same time and in the same vehicle with frozen foods (otherwise authorized)".

No. MC 118468 (Sub-No. 37), (notice of filing of petition to modify permit) filed May 12, 1976. Petitioner: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson St., P.O. Box 166, Eagle Grove, Iowa 50533. Petitioner holds motor *contract carrier* permit in No. MC 118468 (Sub-No. 37), issued April 14, 1975, authorizing transportation, over irregular routes, of *lumber and lumber products*, from points in Washington, Oregon, Montana, Idaho, Wyoming, Colorado, North Dakota and Nebraska, to points in Iowa, Minnesota, Nebraska, Missouri, Wisconsin, Illinois, Kansas, North Dakota and South Dakota, under a continuing contract, or contracts with Emmer Bros., Inc., located at Edina, Minn.

By the instant petition, petitioner seeks to add "building materials (except iron and steel, iron and steel articles, and commodities in bulk)", as an additional description to the above authority.

No. MC 133095 (Sub-No. 52), (notice of filing of petition for modification of certificate) filed May 25, 1976. Petitioner: TEXAS CONTINENTAL EXPRESS, INC., 2603 W. Euless Blvd., P.O. Box 434, Euless, Tex. 76039. Petitioner's representative: Rocky Moore (same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 133095 (Sub-No. 52), issued November 13, 1975, authorizing transportation over irregular routes, of *such merchandise* as is dealt in by retail discount stores (except foodstuffs, and commodities in bulk), from points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut (except Stamford and points in its commercial zone as defined by the Commission), Rhode Island, New York, Pennsylvania, Delaware, and New Jersey, to the retail discount stores and storage facilities of Howard Discount Stores located in Arkansas (except Little Rock and its commercial zone as defined by the Commission), Oklahoma (except Oklahoma City and Tulsa, and their respective commercial zones as defined by the Commission), and Texas (except Dallas, Fort Worth, San Antonio and Houston, and their respective commercial zones as defined by the Commission), restricted (1) to the transportation of shipments originating at the above-named states and destined to shipper's facilities in the named destination states, and (2) subject to the condition that the transportation of drugs, toilet preparations, paper, paper products, new furniture, plumbing fixtures, materials equipment and supplies and/or entertainment products, is limited to the transportation of such commodities in mixed loads with other merchandise dealt in by retail discount stores, subject to the right of the Commission to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operation shall conform to the provisions of Section 210 of the Act.

By the instant petition, petitioner seeks to modify its Certificate (1) by reflecting the correct name of the Company authorized to be served as Howard Discount Centers, Inc. in lieu of Howard Discount Stores; (2) by modifying the territorial description so as to read "to the facilities utilized by Howard Discount Centers, Inc. in lieu of "to the retail discount stores and storage facilities of Howard Discount Stores;" and (3) by modifying the restriction in Part (1) so as to read "restricted to the transportation of shipments originating at the named origins and destined to the named destination points".

### Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by Order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of protests to the granting of the authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR § 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 140873 (republication), filed April 11, 1975, and published in the Federal Register issue of May 15, 1975, and republished this issue. Applicant DOWNEAST MOVING & STORAGE

CORPORATION, 9 Moulton Street, Portland, Maine 04111. Applicant's representative: Earle W. Noyes, Jr. same address as applicant). An Order of Division 1, Acting as an Appellate Division, dated May 13, 1976 and served May 21, 1976, finds that the present and future public convenience and necessity require operations by applicant, as a motor *common carrier*, by motor vehicle, over irregular routes, in the transportation of *used household goods*, between Portland, Maine, on the one hand, and, on the other, points in Maine, restricted to the transportation of shipments having a prior or subsequent movement, in containers beyond the points authorized, and further restricted to the performance of pickup and delivery service.

NOTE.—The purpose of this republication is to indicate the grant of the amended commodity description "used household goods" in lieu of "household goods as defined by the Commission" as previously noticed.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interests in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission and, a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2900 (Sub-No. 290), filed May 7, 1976. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, Fla. 32209. Applicant's representative: John W. Carter, P.O. Box 2408, Jacksonville, Fla. 32203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Ore-Ida Foods, Inc., at Greenville, Mich., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 30844 (Sub-No. 568), filed May 5, 1976. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, Iowa 50702. Applicant's representative: John P. Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Cerrtificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dodge City, Kans., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at and destined to, the named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 50544 (Sub-No. 67), filed May 10, 1976. Applicant: THE TEXAS AND PACIFIC MOTOR TRANSPORT COMPANY, 210 North 13th Street, St. Louis, Mo. 63103. Applicant's representative: Robert S. Davis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities*, in service auxiliary to and supplemental of rail service of the Texas and Pacific Railway Company as follows: Between the junction of Louisiana Highway 1 and U.S. Highway 190 and Natchez, Miss.: From junction of Louisiana Highway 1 and U.S. Highway 190 over U.S. Highway 190 to junction U.S. Highway 61, thence over U.S. Highway 61 to Natchez, Miss., serving no intermediate points, and serving Natchez, Miss. only to interchange traffic in through trailers with affiliated Missouri Pacific Truck Lines, Inc., restricted the service authorized herein is subject to the following conditions: Carrier's service is limited to that which is auxiliary to, or supplemental of, train service of The Texas and Pacific Railway Company, The Weatherford, Mineral Wells, and Northwestern Railway Company, or Texas-New Mexico Railway Company; and between El Paso and Sierra Blanca, Tex., train service of Texas and New Orleans Railroad Company, hereinafter called the Railways. Shipments may be handled at motor carrier rates on The Texas and Pacific Motor Transport Company billing. Substitution of The Texas and Pacific Railway Company rail service for motor service is authorized between points which cannot be served by highway because of restrictions in this certificate. No rail traffic shall be transported by carrier in all-highway service at a rate lower than if it had moved on a motor carrier bill of lading. Carrier shall not render any service to or from any point not a station on a rail line of the Railways.

No shipments shall be transported by carrier between any of the following points, or through, or to, or from, more than one of said points: New Orleans, and Shreveport, La., Texarkana, Tex.-Ark., Fort Worth-Dallas (considered as one), and El Paso, Tex. Shreveport, La., shall apply as a key point only with respect to commodities in bulk and on traffic moving from, to, or through points on the Texas and Pacific Railway between Shreveport and New Orleans, La., including New Orleans.

All contractual arrangements between carrier and Railways shall be reported to the Commission, and shall be subject to revision, if and when it is found necessary, in order that such arrangements shall be fair and equitable to the parties.

Such further specific conditions as in the future the Commission may find necessary to impose in order to insure that carrier's service shall be auxiliary to, or supplemental of, train service of the railways.

NOTE.—The sole purpose of this application is to secure a shorter closed door route in conjunction with the Missouri-Pacific Truck Lines, Inc. for operating convenience only, between New Orleans, La. and Monroe, La. via Natchez, Miss. in lieu of and in addition to the presently authorized route of these two companies between New Orleans, La. and Monroe, La. via Alexandria, La. Missouri Pacific Truck Lines, Inc. has authority between Natchez, Miss. and Monroe, La. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at New Orleans or Baton Rouge, La.

No. MC 51146 (Sub-No. 466), filed May 13, 1976. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's

representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, (1) from Hudson Falls, N.Y., to points in Virginia, Maryland, and Pennsylvania; (2) from West Point, Va., to Cleveland and Toledo, Ohio; and Goshen, Ind.; (3) from Chagrin Falls, Ohio, to Goshen, Ind.; St. Louis, Mo.; Sibley, Iowa; Chicago, Ill.; New Orleans, La.; and Grand Rapids, Mich.; and (4) from Crosset, Ark., to Springfield and Chicago, Ill.; St. Louis, Mo.; Sibley, Iowa; Toledo and Cleveland, Ohio; Buffalo, N.Y.; Evansville and Indianapolis, Ind.; Tiffin, Iowa; and Louisville, Ky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 71459 (Sub-No. 57) filed April 28, 1976. Applicant: O.N.C. FREIGHT SYSTEMS, P.O. Box 386, Elwood, Kans. 66204. Applicant's representative: Roland Rice, 1111 E Street, N.W., Suite 618, Washington, D.C. 20004. 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), (1) Between Ashfork and Kingman, Ariz., in connection with carrier's authorized regular route operations, serving no intermediate points, but serving Kingman, Ariz., for purposes of joinder only: From Ashfork, over U.S. Highway 66 (Interstate Highway 40) to Kingman, and return over the same route; (2) Between Wickenburg, and Kingman, Ariz., in connection with carrier's authorized regular-route operations, serving no intermediate points but serving Kingman, Ariz., for purposes of joinder only: From Wickenburg, over U.S. Highway 93 to junction Interstate Highway 40, thence over Interstate Highway 40 to Kingman, and return over the same route; and (3) Between San Bernardino, Calif., and Kingman, Ariz., in connection with carrier's authorized regular-route operations, serving no intermediate points, but serving Kingman, Ariz., for purposes of joinder only: From San Bernardino over Interstate Highway 15 to junction Interstate Highway 40, thence over Interstate Highway 40 to Kingman, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif. or Washington, D.C.

No. MC 79525 (Sub-No. 4), filed May 11, 1976. Applicant: THE NORRIS BROTHERS COMPANY, 2138 Davenport Avenue, Cleveland, Ohio 44114. Applicant's representative: Ambrose A. Such, 5275 Ridge Road, Cleveland, Ohio 44129. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring the use of special equipment or handling on flatbed or low-boy equipment, between Fairport, Fairport Harbor, Madison, Plainesville and Perry, Ohio, on the one hand, and, on the other, Cleveland Electric Illuminating Company Power Plant, located at North Perry, Ohio, restricted to traffic having a prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 109478 (Sub-No. 142), filed May 11, 1976. Applicant: WORSTER MOTOR LINES, INC., R.D. No. 1 Gay Road, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages* (except in bulk, in tank vehicles), and *advertising materials*, when moving in mixed loads with malt beverages, from Utica, N.Y., to points in Erie, Crawford, Mercer, Venango, Warren, Forrest, Clarion, Lawrence, Beaver, Westmoreland, McKean, Elk, Jefferson, Clearfield, Cameron, Potter, Alleghany, Butler, Armstrong and Indiana Counties, Pa., and points in Ohio; and (2) *empty malt beverage containers* and *refused and rejected shipments*, from the destination points named in (1) above, to Utica, N.Y., restricted in (1) and (2) above to traffic originating at the above named origin points and destined to the above named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 109682 (Sub-No. 35) filed May 13, 1976. Applicant: WHITEFORD TRANSPORT, INC., 620 Ireland Road, South Bend, Ind. 46614. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buses and bus chassis*, in driveaway service, (1) from ports of entry on the International Boundary line between the Republic of Mexico and Texas; and (2) from Woodlawn, Tex., to points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Dallas or Houston, Tex.

No. MC 111274 (Sub-No. 13), filed May 11, 1976. Applicant: ELMER C. SCHMIDGALL AND BENJAMIN G. SCHMIDGALL doing business as SCHMIDGALL TRANSFER, P.O. Box 249, Tremont, Ill. 61568. Applicant's representative: Frederick C. Schmidgall, P.O. Box 356, Morton, Ill. 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fencing and fencing materials, farm buildings, materials and components of farm buildings*, between Morton, Ill., on the one hand, and, on the other points in Tennessee, under a continuing contract, or contracts, with Morton Buildings, Inc., (formerly Interlocking Fence Co.).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or St. Louis, Mo.

No. MC 111729 (Sub-No. 656) filed May 12, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal samples, coal dust, materials related to mining* (used picks and shovels), and *business records*, restricted against the transportation of packages or articles weighing in excess of 20 pounds each from one consignor to one consignee on any one day, between Charleston, W. Va., on the one hand, and, on the other, points in Allegheny, Washington, and Westmoreland Counties, Pa.

NOTE. Applicant holds contract carrier authority in No. MC 112750 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 111729 (Sub-No. 657), filed May 13, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, prescriptions, drug store and toilet supplies, and displays*, from Tacoma, Wash., to points in Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Josephine, Jackson, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill Counties, Oreg., restricted against the transportation of packages or articles weighing in excess of 150 pounds, and further restricted to the transportation of traffic moving on behalf of Northwestern Drug Company located at Tacoma, Wash.

NOTE.—Applicant holds contract carrier authority in No. MC 112750 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112750 (Sub-No. 325) filed May 14, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street, NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities), as are used in the business of banks and banking institutions, between Pittsburgh, Pa., on the one hand, and, on the other Elkins, Keyser, Moorefield, Petersburg, and Romney, W. Va., under a continuing contract or contracts with, Mellon Bank, N. A.; Citizens National Bank; Farmers

and Merchants Bank of Keyser; South Branch Valley National Bank; Potomac Valley Bank and The Bank of Romney.

NOTE.—Applicant holds common carrier authority in MC 111729 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113083 (Sub-No. 5), filed April 14, 1976. Applicant: JOHN F. MAHR, doing business as MAHR BROS. TRANSPORTATION CO., Standish Road, Coventry, Conn. 06238. Applicant's representative: William P. Sullivan, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic and plastic articles* (except in bulk), from Gales Ferry, Conn. and Carteret, N.J., to points in Florida, Georgia, North Carolina, and South Carolina, under a continuing contract, or contracts with Dow Chemical Company.

NOTE.—Applicant holds common carrier authority in No. MC 124674, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114211 (Sub-No. 266), filed May 6, 1976. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Dan Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds, and accessories*, from the plantsite and storage facilities of Elk Corporation, located at or near Stephens and Camden, Ark., to points in Alabama, Georgia, Iowa, Illinois, Indiana, Kentucky, Louisiana, Minnesota, Missouri, Mississippi, Oklahoma, Tennessee, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Baton Rouge, La. or Little Rock, Ark.

No. MC 114211 (Sub-No. 267), filed May 6, 1976. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Dan Sullivan, 327 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated lumber, lumber mill products, posts and poles*, from Bradley County, Ark., to points in Indiana, Iowa, Kansas, Missouri, Minnesota, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or Baton Rouge, La.

No. MC 114211 (Sub-No. 268), filed May 7, 1976. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Dan Sullivan, 327 South LaSalle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in, or used by, agricultural machinery and industrial equipment dealers (except commodities in bulk), from points in Nueces County, Tex., to points in the United States, including Alaska but excluding Hawaii; and (2) *equipment, materials and supplies* used in the manufacture and distribution of the above named commodities (except commodities in bulk), from points in the United States, including Alaska but excluding Hawaii to points in Nueces County, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston or Dallas, Tex.

No. MC 114211 (Sub-No. 269), filed May 12, 1976. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foamboard, insulation, insulated gypsum foam board panels and insulated building systems*, from Dallas County, Tex., to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Washington, D.C.

No. MC 117878 (Sub-No. 11), filed May 10, 1976. Applicant: DWIGHT CHEEK, doing business as, DWIGHT CHEEK TRUCKING, 2909 S. Pierce, Amarillo, Tex. 79105. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), (1) from Roswell, N. Mex. to points in Arizona and California; and (2) from Amarillo, Tex. to points in Arizona, California, and Las Vegas, Nev.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Amarillo or Dallas, Tex.

No. MC 119619 (Sub-No. 87), filed May 12, 1976. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43rd St., Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Suite 1515, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, from the plantsite and storage facilities of Elcona Foods, Inc. located at Elkhart, Ind., to points in Connecticut, Delaware, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant did not specify a location.

No. MC 119632 (Sub-No. 65), filed May 14, 1976. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, Ohio 43512. Applicant's representative: John P. McMahon, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs* (except fresh meat, frozen foods and commodities in bulk, in tank vehicles), from Napoleon, Ohio, to points in New York, Pennsylvania, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 119872 (Sub-No. 12), filed May 3, 1976. Applicant: GULF TRANSFORT, LIMITED, 16 Exhibition Drive, Charlottetown, Prince Edward Island, Canada. Applicant's representative: Kenneth B. Williams, 84 State Street, Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diced onions and frozen onion rings*, from points on the International Boundary line between the United States and Canada, located at or near Houlton and Calais, Maine to points in Connecticut, Maine, Massachusetts, New York, New Jersey, and Pennsylvania, restricted to shipments originating at Oxford, Nova Scotia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 124939 (Sub-No. 8), filed May 7, 1976. Applicant: FOOD HAUL, INC., 1215 West Mound Street Rear, Columbus, Ohio 43223. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, and Dubuque, Iowa, restricted against the transportation of commodities in bulk, under a continuing contract, or contracts with The Great Atlantic & Pacific Tea Company, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124939 (Sub-No. 9), filed May 10, 1976. Applicant: FOOD HAUL, INC., 1215 West Mound Street Rear, Columbus, Ohio 43223. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fresh bakery products*, from the facilities of The Kroeger Company, at Solon, Ohio, to the facilities of The Kroeger Company, at Ft. Wayne, Ind.; (2) *merchandise as is dealt in by wholesale, retail and chain grocery and food business houses*, and in connection therewith, *equipment, materials and supplies*, used in the conduct of such business (except commodities in bulk), between Livonia, Mich., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Ohio, West Virginia, and points in Pennsylvania on and west of U.S. Highway 219; (3) *merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses*, and, in connection therewith, *equipment, materials, and supplies*, used in the conduct of such business (except commodities in bulk), between Columbus, Ohio, on the one hand, and, on the other, Atlanta, Ga.; Charleston, W. Va.; Dallas and Houston, Tex.; Detroit and Grand Rapids, Mich.; Ft. Wayne and Indianapolis, Ind.; Kansas City, Kans.; Little Rock, Ark.; Louisville, Ky.; Memphis and Nashville, Tenn.; Peoria, Ill.; Pittsburgh, Pa.; Roanoke, Va.; and St. Louis, Mo.; and (4) *merchandise as is dealt in by wholesale, retail and chain grocery and food business houses*, and, in connection therewith, *equipment, materials, and supplies*, used in the conduct of such business (except commodities in bulk), between Cincinnati, Ohio, on the one hand, and, on the other, points in Arkansas, Georgia, Indiana, Illinois, Kentucky, points in the lower peninsula of Michigan, points in Missouri, Ohio, those points in Pennsylvania on and west of U.S. Highway 219, and points in Tennessee, Texas, Virginia, and West Virginia, under a continuing contract or contracts with The Kroeger Company, restricted against the transportation of commodities in bulk, and further restricted to movements originating at, and destined to a facility of The Kroeger Company, and all operations will be conducted in vehicles equipped with mechanical refrigeration.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125358 (Sub-No. 21), filed May 7, 1976. Applicant: MID-WEST TRUCK LINES, LTD., 1216 Fife Street, Winnipeg, Manitoba, Canada. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, equipment and materials*, used in the manufacture, assembly and repair of automotive buses, from Centerville, Iowa and Coldwater, Mich., to Pembina, N. Dak., under a continuing contract, or contracts, with Motor Coach Industries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 128273 (Sub-No. 227), filed May 11, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., 121 Humboldt St., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, Jr., 1403 South Horton St., Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sisal products*, from Laredo, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128375 (Sub-No. 143), filed April 30, 1976. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Ken Adams (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal food, materials and supplies, and ingredients*, used in the manufacture, distribution, and sale thereof, *and pet supplies* (except in bulk), (1) between Saline, York, and Lancaster Counties, Nebr., on the one hand, and, on the other, Billings, Mont., and points in New York, Oregon, and Washington; and (2) between York and Lancaster Counties, Nebr., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois (except Chicago), Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota (except St. Paul), Mississippi, Missouri, Montana (except Billings), Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, and Wyoming, under a continuing contract with Allen Products Co., a Division of Liggett & Myers Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa. or Lincoln, Nebr.

No. MC 133490 (Sub-No. 11), filed April 29, 1976. Applicant: LEE'S TRUCKING, INC., Route 1, Box 223A, Wyoming, Minn. 55092. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glassware*, from Dunkirk, Ind.; Mundelein, Ill.; Zanesville, Ohio; Brockport, N.Y.; Washington, Pa. and Huntington, W. Va. to Minneapolis, Minn.; (2) *Plastic containers*, from La Porte and Ligonier, Ind.; Streamwood, Ill.; Paterson, N.J.; Port Clinton, Ohio and New York, N.Y. and its Commercial Zone, to Minneapolis, Minn.; and (3) *pottery*, from Scio, Ohio, to Minneapolis, Minn., (1), (2), and (3) are under a continuing contract or contracts with TCB, Incorporated, Minneapolis, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 134923 (Sub-No. 84), filed May 3, 1976. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 4146, Amarillo, Tex. 79105. Applicant's representative: Jay Trammell (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and storage facilities of MBPXL Corporation, located at or near Friona, Tex., to points in Arkansas, Arizona, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Mississippi, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Utah, Washington, Wisconsin, West Virginia, and Wyoming; (2) *meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and storage facilities of MBPXL Corporation, located at or near Plainview, Tex., to points in Iowa, Idaho, Kansas, Montana, North Dakota, Nebraska, Nevada, Missouri, Oregon, Minnesota, South Dakota, Utah, Washington, and Wyoming; and (3) *such commodities* as are used by meat packers in the conduct of their business, as described in Sections A, C, and D of Appendix I in Descriptions in Motor Carrier Certificates, 61 M.C.C. 766, between the plantsites and storage facilities of MBPXL Corporation, located at or near Friona and Plainview, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), (1), (2), and (3) are under a continuing contract or contracts with MBPXL Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Wichita, Kans. or Amarillo, Tex.

No. MC 138824 (Sub-No. 4), filed May 12, 1976. Applicant: REDWAY CARRIERS, INC., 411 Eleventh Street, P.O. Box 104, North Chicago, Ill. 60064. Applicant's representative: Paul J. Maton, Ten South LaSalle Street, Suite 1620, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, dry or liquid, in containers, *materials and supplies* incidental to, and used in the processing, canning, and bottling of food products, between the plantsite and warehouse facilities of Ocean Spray Cranberries, Inc., located at points in Kenosha County, Wis., North Chicago, Ill., points in Missouri on and east of U.S. Highway 65 (except Springfield, Mo.), and points in Alabama, Georgia, Illinois, Indiana, Kentucky, Louisiana Mississippi, Ohio, and Tennessee, under a continuing contract, or contracts, with Ocean Spray Cranberries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 139493 (Sub-No. 2), filed May 7, 1976. Applicant: LESCO TRANSPORTATION COMPANY, INC., 7540 LBJ Freeway, Dallas, Tex. 75240. Applicant's representative: Chandler L. van Orman, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel scrap*, from points in Arkansas, Louisiana, Mississippi, and Oklahoma to Lone Star, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 141228 (Sub-No. 2), filed March 29, 1976. Applicant: TRUX TRANSPORT, INC., 508 So. Airport Boulevard, South San Francisco, Calif. 94080. Applicant's representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in San Francisco, San Mateo, and Santa Clara Counties, Calif., on the one hand, and, on the other, points in Los Angeles and Orange Counties, Calif., having a prior or subsequent out-of-state movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 141940 (Sub-No. 1), filed May 10, 1976. Applicant: KEG TRANSPORTATION, INC., West Park Avenue, Oakhurst, N.J. 07755. Applicant's representative: Donald M. Gallagher, 25 Cori Street, Parlin, N.J. 08859. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers, pails, covers, caps and handles*, loose and in cartons, from Englishtown, N.J. to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, and the District of Columbia, under a continuing contract with Bennett Industries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 141955 (Sub-No. 2), filed May 7, 1976. Applicant: SECURITY FREIGHT LINES, INC., 7230 N.W. 56th Street, Miami, Fla. 33166. Applicant's representative: Richard B. Austin, Suite 214 Palm Coast II Bldg., 5255 N.W. 87th Avenue, Miami, Fla. 33178. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, commodities in bulk, or commodities which, by reason of size or weight, require specialized handling and equipment), between Miami, Fla., and its Commercial Zone, as generally defined in 49 CFR 1048.101 under contract with Security Forwarding Service, Inc., restricted to traffic having a prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 142058, filed May 7, 1976. Applicant: C.R.R. DELIVERY SERVICE, INC., 368 West 17th Street, Hialeah, Fla. 33010. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, livestock, those requiring the use of special handling and equipment, and commodities requiring refrigeration), between points in Dade County, Fla., restricted to the transportation of shipments having a prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Miami, Fla.

PASSENGER APPLICATION

No. MC 139343 (Sub-No. 6), filed May 11, 1976. Applicant: MEXICOACH, INC., 1050 Kettner Blvd., San Diego, Calif. 92102. Applicant's representative: Eric Rath, P.O. Box 226, La Jolla, Calif. 92037. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, (1) Between Los Angeles, Calif., and Tecate, Calif.: From Los Angeles, Calif., over Interstate Highway 5 to junction California Highway 94, thence over California Highway 94 to junction California State Highway 188 west of Potrero, Calif., thence over California State Highway 188 to the International Boundary line between the United States and the Republic of Mexico, located at Tecate, Calif., and return over the same route, serving no intermediate points; (2) Between Anaheim, Calif., and Tecate, Calif.: From Anaheim, Calif., over Interstate Highway 5 to junction California Highway 94, thence over California Highway 94 to junction California State Highway 188 west of Potrero, Calif., thence over California State Highway 188 to the International Boundary line, between the United States and the Republic of Mexico, located at Tecate, Calif., and return over the same route, serving no intermediate points; and (3) Between Santa Ana, Calif., and Tecate, Calif.: From Santa Ana, Calif., over Interstate Highway 5 to junction California Highway 94, thence over California Highway 94 to junction California State Highway 188 west of Potrero, Calif., thence over California State Highway 188 to the International Boundary line between the United States and the Republic of Mexico, located at Tecate, Calif., and return over the same route, serving no intermediate points, restricted in (1), (2), and (3) above to the transportation of passengers and their baggage originating at or destined to points in Mexico.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Diego, Calif.

WATER APPLICATION

No. W-71 (Sub-1), filed April 30, 1976. Applicant: BRUSCO TOWBOAT COMPANY, Foot of Water St., Cathlamet, Wash. 98612. Applicant's representative: David C. White, 2400 S.W. Fourth Avenue, Portland, Oreg. 97201. Authority sought to engage in operation, in interstate or foreign commerce as a *common carrier by water* in the transportation of *commodities generally*, by general towage and non-self-propelled vessels with the use of separate towing vessels, between ports and points along the Columbia, Snake and Clearwater Rivers: from Booneville Dam on the Columbia River to Priest Rapids Dam, Washington on the Columbia River and up to 3 miles above the mouth of the Grande Ronde River on the Snake River in Idaho and to Hog Island on the Clearwater River in Idaho (approximately eight and one-half miles from the confluence of the Snake River and Clearwater River).

NOTE.—Applicant states it will tack at the Booneville Dam on the Columbia River to serve ports and points on the Columbia River and its tributaries below the Booneville Dam and to Oregon City on the Willamette River. If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR § 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

No. MC-F-12840. Authority sought for purchase by ROLLAND GUENTHER, DBA R. GUENTHER TRUCKING COMPANY, Post Office Box 175, Ross, Ohio, 45061, of a portion of the operating rights of JACKSON TRUCKING, INCORPORATED, 1210 106th Avenue, Plainwell, MI. 49080, of control of such rights through the purchase. Applicants' attorney: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI. 48933. Operating rights sought to be transferred: *Paper and paper products, empty steel drums and supplies* used by paper mills in the manufacture of paper, as a *contract carrier* over regular routes between Otsego, Michigan and Aurora, Illinois serving the intermediate point of Joliet, Illinois, restricted to traffic moving to or from Otsego; from Otsego over Michigan Highway 89 to Plainwell, Michigan, thence over Business Route U.S. Highway 131 to Kalamazoo, Michigan, thence over unnumbered highway (formerly portion U.S. Highway 12) to junction Interstate Highway 94, thence over interstate Highway 33 to junction U.S. High-

way 12, thence over U.S. Highway 12 to Gary, Indiana, thence over Michigan City Road to Riverdale, Illinois, thence over Illinois Highway 1 via Harvey, Illinois to junction U.S. Highway 6, thence over U.S. Highway 6 to Joliet, Illinois, thence over U.S. Highway 30 to Aurora and return over the same route, from Otsego to Harvey as specified above, thence over Illinois Highway 1 to Chicago Heights, Illinois, thence over U.S. Highway 30 to Joliet, Illinois, thence over Illinois Highway 53 to junction U.S. Highway 66, thence over U.S. Highway 66 to Cicero, Illinois (also from Joliet over Illinois Highway 171 to Cicero), thence over U.S. Highway 34 to junction Illinois Highway 65, thence over Illinois Highway 65 to Aurora and return over the same routes, between Otsego, Michigan and Chicago, Illinois serving the intermediate points of South Chicago and Cicero, Illinois, restricted to traffic moving to or from Otsego, from Otsego to Gary as specified above, thence over U.S. Highway 20 to Chicago and return over the same route. *Paper and paper products, empty steel drums and supplies* used by paper mills in the manufacture of paper, as a *contract carrier* over irregular routes, between Otsego, Michigan, on the one hand, and, on the other, points in Indiana, *paper mill products*, from Otsego, Michigan to points in Ohio, *scrap or waste paper, paper mill rolls, skids and covers for skids*, from points in Ohio to Otsego, Michigan. Vendee is authorized to operate as a *contract carrier* in Illinois, Ohio, Indiana, Michigan, New York, Wisconsin, Missouri, and Pennsylvania, and as a *common carrier* in Ohio. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12843. Authority sought for control and merger by TRANSCON LINES, P.O. Box 92220, Los Angeles, CA. 9009, of the operating rights and property of POTTER FREIGHT LINES, P.O. Box 428, Highway 42, Sparta, TN. 38583. Applicants' attorneys: Wenthworth E. Griffin, 1221 Baltimore Avenue, Sixth Floor, Midland Building, Kansas City, MO. 64105, and James Clarence Evans, 18th Floor, Third National Bank Building, Nashville, TN. 37219. Operating rights sought to be controlled and merged: General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), as a *common carrier*, over regular and irregular routes, between specified points in the state of Tennessee, with certain restrictions, serving various intermediate points, including various alternate routes for operating convenience only, as more specifically described in Docket No. MC–28893 and Sub numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating in full the entirety thereof. Vendee is authorized to operate as a *common carrier* in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming. Application has not been filed for temporary authority under Section 210a(b).

NOTE.—MC–110325 (Sub No. 74) is a directly related matter.

No. MC–F–12844. Authority sought for purchase by AURORA FAST FREIGHT, INC., 1859 Plain Avenue, Aurora, IL. 60505, of a portion of the operating rights and property of KESSMAN TANK SERVICE, INC., 23 Lexington Drive, Fairview Heights, IL. 62208, and for acquisition by ROBERT M. HARTMANN, 2452 Cambridge Rd., Aurora, IL., TERRY M. HARTMANN, R 1 Box 663J Batavia, IL., and KENNETH R. HARTMANN, 1071 Adobe Dr., Aurora, IL., of control of such rights and property through the purchase. Applicants' attorney: Daniel C. Sullivan 327 S. La Salle Street, Chicago, IL. 60604. Operating rights and property sought to be transferred: *General commodities*, except those of unusual value, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious of contaminating to other lading, as a common carrier over irregular routes between Hamel, Ill. and St. Louis, Missouri serving the intermediate and off-route points within ten miles of Hamel, Illinois: from Hamel over By-Pass U.S. Highway 66 to junction Illinois Highway 157, thence over Illinois Highway 157, thence over Illinois Highway 40 to St. Louis, and return over the same route. Vendee is authorized to operate as a *common carrier* in Illinois and Missouri. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC–120523 (Sub No. 2) is a directly related matter.

No. MC–F–12845. Authority sought for control by J. D. GARRISON, (an individual) non-carrier, Highway 81 & Interstate 75, Route 3, McDonough, GA. 30253, of GEORGE BENNETT MOTOR EXPRESS, INC., Highway 81 & Interstate 75, Route 3, McDonough, GA. 30253. Applicants' attorney: GUY H. POSTELL, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA. 30326. Operating rights sought to be controlled: *Implements, implement and tractor* (except truck tractor) *carts*, and *lubricating oil*, in containers, and *tractors* (except truck tractors), when moving in mixed loads with the above-specified commodities, as a *contract carrier* over irregular routes from the warehouse of Ford Motor Company at Tucker, Ga., to points in Alabama, Florida, North Carolina, South Carolina, and Tennessee, with no transportation for compensation on return except as otherwise authorized; *implements, implement and tractor parts* (except truck tractor) and *tractors* (except truck tractors), from the facilities of Ford Motor Company dealers in Alabama, Florida, North Carolina, South Carolina, and Tennessee, to Tucker, Ga., and points in Alabama, Florida, North Carolina, South Carolina, and Tennessee, with no transportation for compensation on return except as otherwise authorized; *bakery products and stationery*, from the plant site of the Sunshine Biscuit Company, at Columbus, Ga., to points in Florida; and *bakery materials and supplies*, from points in Florida, to the plant site of the Sunshine Biscuit Company, at Columbus, Ga.; *bakery products*, except frozen, from the plant site of Sunshine Biscuit Company at Columbus, Ga., to points in North Carolina, South Carolina, Alabama, Louisiana, Tennessee, and Mississippi, with no transportation for compensation on return except as otherwise authorized; (1) *implements, implement and tractor parts* (except truck tractor parts), and *lubricating oil*, in containers, (2) *tractors* (except truck tractors), when moving in mixed loads with the specified commodities in (1) above, and (3) *related publications, advertising materials, packaging and shipping supplies*, from various points, highways and intersections in Tennessee, Mississippi, Louisiana, Alabama, Kentucky, Missouri, and Arkansas, with restrictions.

This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. J. D. GARRISON, holds no authority from this Commission. However, it is affiliated with SPECIALIZED TRUCK SERVICE, INC., who under MC–135384 and subs thereunder, is authorized to operate as a *common carrier* in Georgia, Alabama, Florida, North Carolina, South Carolina, Tennessee, Arkansas, Kentucky, Louisiana, Mississippi, Virginia, Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Vermont, West Virginia, Wisconsin, the District of Columbia, Kansas, Iowa, and Michigan. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12847. Authority sought for purchase by GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road, S.E., Atlanta, Ga. 30315 of the operating rights of JAMES B. ALEXANDER D/B/A ALEXANDER TRUCKING COMPANY, South Main Street, P.O. Box 103, Davidson, N.C. 28036, and for acquisition by H. D. WINSHIP, JR., W. C. WINSHIP, both of Atlanta, GA. 30315, EMORY WINSHIP, of 1105 Beachview Drive, St. Simons Island, GA. 31522, and

by ANNE W. KELLEHER, of 158 Stockbridge Avenue, Atherton, CALIF. 94025, of control of such rights through the purchase. Applicants' attorneys: Robert C. Dryden, 2090 Jonesboro Road, S.E., P.O. Box 6944, Atlanta, GA. 30315, Bates B. Block, First National Bank Towers, Atlanta, GA. 30303 and T. W. Alexander, 3450 NCNB Plaza, Charlotte, N.C. 28280. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC–121655, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of North Carolina. Vendee is authorized to operate as a *common carrier* in the states of Alabama, Florida, Georgia, Illinois, North Carolina and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12848. Authority sought for purchase by HENRY ZELLMER, DBA ZELLMER TRUCK LINES, P.O. Box 996, Granville, IL 61326, of the operating rights of MADWYN JAMES, DBA JAMES TRANSFER, 1134 E. Hawthorne Avenue, St. Paul, MN., and for acquisition by HENRY ZELLMER, P.O. Box 996, Granville, IL. 61326, of control of such rights through the purchase. Applicants' attorney: E. Stephen Heisley, Suite 805, 666 Eleventh Street, N.W., Washington, D.C. 20000. Operating rights sought to be transferred: *Malt beverages*, as a *common carrier* over irregular routes from Milwaukee, and Sheboygan, Wis., to Albert Lea, Austin, Owatonna, and Rochester, Minn., with no transportation for compensation on return except as otherwise authorized; from LaCrosse, Wis., to Albert Lea, Austin, North Mankato, Owatonna, and Rochester, Minn., with no transportation for compensation on return except as otherwise authorized, with restrictions: *malt beverages*, from St. Paul and Minneapolis, Minn., to points in Nebraska and that part of Iowa on and west of U.S. Highway 65, with no transportation for compensation on return except as other wise authorized. Vendee is authorized to operate as a *common carrier* in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Wisconsin, and Wyoming. Application has been filed for temporary authority under section 210a(b).

MC–F–12849. Authority sought for purchase by ATLANTA MOTOR LINES, INC., 1622 Cedar Grove Road (P.O. Box 345), Conley, GA. 30027, of a portion of the operating rights of NORTHERN FREIGHT LINES, INC., 41015 Interstate Highway 85 (P.O. Box 10303) Charlotte, N.C. 28201, and for acquisition by JENNINGS E. WATKINS and JAMES L. WATKINS, both of P.O. Box 345, Conley, GA. 30027, of control of such rights through the purchase. Applicants' attorney: Paul M. Daniell, P.O. Box 872, Atlanta, GA. 30301. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes between Greenville, S.C., on the one hand, and on the other, points in Georgia lying West of U.S. Highway 221 within 100 miles of Greenville (except Toccoa, GA., and points in the Toccoa, GA., commercial zone, as defined by the Commission). Vendee is authorized to operate as a common carrier in North Carolina, South Carolina, Georgia, and Tennessee. Application has been filed for temporary authority under section 210a(b).

Finance Docket No. 27971 (Second Correction) (McHUGH BROTHERS HEAVY HAULING, INC.) published in the May 6, 1976, and the May 27, 1976, issues of the FEDERAL REGISTER. Prior notices should read as follows:

NOTICE

McHUGH BROTHERS HEAVY HAULING, INC. (McHugh), Box 196, Penndel, Bucks County, Pennsylvania 19047, represented by Mr. James C. McHugh, Box 196, Penndel, Pennsylvania 19407, hereby give notice that, on the 4th day of August 1975, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 5(2) of the Interstate Commerce Act for McHugh to lease from the Bucks County Industrial Development Corporation the properties of the New Hope and Ivyland Railroad Company (New Hope), a common carrier by rail. McHugh will lease and operate the properties for a 3-year period.

The operating rights sought to be controlled are the operating rights and property of the New Hope to Ivyland, Pennsylvania, which application is assigned Finance Docket No. 27971.

As the New Hope is in reorganization, a Plan of Reorganization was submitted to the Interstate Commerce Commission and the Reorganization Court and was approved by both. The above-described transaction constitutes part of the Plan.

McHugh, a non-carrier, is controlled by James C. McHugh and Robert C. McHugh through stock ownership. James C. and Robert McHugh also control through stock ownership Bucks County Construction Company, a motor common carrier subject to Part II of the Act. Bucks County Construction Company operates pursuant to authority authorized in No. MC–126034 to operate as a common carrier over irregular routes from, to, and between points and places in the States of Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, West Virginia, Maryland, and the District of Columbia.

Applicants have stated in their application that the quality of the human environment will not be affected by the in the application. In accordance with proposed Commission's action requested in the application. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 340 I.C.C. 431 (1972), 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 include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b)(1)–(5), 340 I.C.C. 431, 461.

The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

MC HUGH BROTHERS HEAVY HAULING, INC.

OPERATING RIGHTS APPLICATIONS DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights applications are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with pending transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR § 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its applications.

No. MC 57697 (Sub-No. 2), filed May 17, 1976. Applicant: LESTER SMITH TRUCKING, INC., a Corporation, 822 W. Main, Sterling, Colo. 80751. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural commodities, feed, seed, building materials and farm machinery*, between points in Wyoming on the one hand, and, on the other, points in Iowa, Kansas, Nebraska, and South Dakota (except North Platte, Ogallala and Chappell, Nebr.); and (2) *building materials* (except precase and prestressed concrete products and commodities which by reason of size or weight require the use of special equipment), from points in Missouri to points in Wyoming. The purpose

of this filing is to eliminate the gateway of Julesburg, Colo.

NOTE.—This is a matter directly related to a Section 5(2) finance proceeding in MC-F-12827 published in the FEDERAL REGISTER issue of May 6, 1976. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Denver, Colo. Special Instruction: Applicant has filed its case-in-chief. An original and two copies of *complete verified statments in opposition* including all evidence upon which the opposing party intends to rely must be filed with the Commission within 30 days after this FEDERAL REGISTER notice.

No. MC 134356 (Sub-No. 5) filed May 10, 1976. Applicant: GALE DELIVERY, INC., 45 Sweeneydale Avenue, North Bayshore, Long Island, N.Y. 11706. Applicant's representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K Street, N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between points in Bergen, Essex, Hudson, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in the New York, N.Y. Commercial Zone as defined by the Commission, and points in Nassau and Suffolk Counties, N.Y.; and (2) between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in the New York, N.Y. Commercial Zone. The purpose of this filing with respect to both Parts (1) and (2) above is to request tacking and concurrently eliminate a gateway at that portion of Hudson County, N.J. within the New York, N.Y. Commercial Zone.

NOTE.—Applicant states that its tacking operations with respect to Part (1) are provided by joining its existing authority in its Sub 2 with authority it seeks to acquire in MC-F-12120, and then joining the combined authority with its existing authority in its Sub 3. Applicant further states that its tacking operations with respect to Part (2) are provided by joining its existing authority in its Sub 3 with the authority it seeks to acquire in MC-F-12120. This is a matter directly related to a Section 5(2) finance proceeding presently pending on a petition for reconsideration in MC-F-12120 which was published in the FEDERAL REGISTER issue of February 6, 1974. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. Special Instruction: Applicant has filed its case-in-chief. An original and two copies of *complete verified statements in opposition* including all evidence upon which the opposing party intends to rely must be filed with the Commission within 30 days after this FEDERAL REGISTER notice.

## MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Commission's Deviation Rules—Motor Carriers of Property (49 CFR § 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules (49 CFR § 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

### MOTOR CARRIERS OF PROPERTY

No. MC 109324 (Deviation No. 4), GARRISON MOTOR FREIGHT, INC., P.O. Box 969, Harrison, Ark. 72601, filed May 28, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 167 and Arkansas Highway 25 over Arkansas Highway 25 to junction Arkansas Highway 14, thence over Arkansas Highway 14 to Mountain View, Ark., thence over Arkansas Highway 66 to junction U.S. Highway 65 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction U.S. Highway 167 and Arkansas Highway 25 over U.S. Highway 167 to junction Arkansas Highway 69, thence over Arkansas Highway 69 to junction Arkansas Highway 9, thence over Arkansas Highway 9 to junction Arkansas Highway 56, thence over Arkansas Highway 56 to junction Arkansas Highway 5, thence over Arkansas Highway 5 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Arkansas Highway 66, and return over the same route. Restriction: The operations authorized herein are restricted against the transportation of shipments (1) from Little Rock and Conway, Arkansas, Springfield and Joplin, Missouri, and the commercial zones thereof as defined by the Commission to Memphis, Tennessee, and the commercial zone thereof as defined by the Commission, and (2) from Memphis, Tennessee, and the commercial zone thereof as defined by the Commission to Little Rock and Conway, Arkansas, Springfield and Joplin, Missouri, and the commercial zones thereof as defined by the Commission, including shipments originating at or interchanged at the above-named points.

No. MC 111231 (Deviation No. 52), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764, filed May 21, 1976. Carrier's representative: James B. Blair, 111 Holcomb St., Springdale, Ark. 72764. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Atlanta, Ga., over Interstate Highway 85 to Montgomery, Ala., thence over U.S. Highway 80 to junction U.S. Highway 43 near Demopolis, Ala., thence over U.S. Highway 43 to junction U.S. Highway 84 near Grove Hill., Ala., thence over U.S. Highway 84 to junction Interstate Highway 55 near Brookhaven, Miss., thence over Interstate Highway 55 to junction Interstate Highway 12 near Hammond, La., thence over Interstate Highway 12 to junction Interstate Highway 10 near Baton Rouge, La., thence over Interstate Highway 10 to New Orleans, La., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Atlanta, Ga., over U.S. Highway 78 to Memphis, Tenn., thence over U.S. Highway 61 to junction Interstate Highway 20 near Vicksburg, Miss., thence over combined U.S. Highway 80 and Interstate Highway 20 to junction U.S. Highway 49 near Jackson, Miss., thence over U.S. Highway 49 to Hattiesburg, Miss., thence over U.S. Highway 11 to junction U.S. Highway 90, thence over U.S. Highway 90 to New Orleans, La., and return over the same route. Said operations are restricted against the transportation of (a) traffic originating at or received from connecting carriers at Memphis, Tenn., and points in its commercial zone, as defined by the Commission, and destined to points 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, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the United States-Canada Boundary line; (b) traffic originating at points east of the line described in (a) above and destined to or delivered to connection carriers at Memphis, Tenn., and points in its commercial zones, as defined by the Commission; (c) traffic moving between Atlanta, Ga., and Birmingham, Ala., and points in their commercial zones, as defined by the Commission; (d) traffic moving between Forth Worth and Dallas, Tex., on the one hand, and, on the other, Atlanta, Ga., and Birmingham, Ala., and points in their respective commercial zones, as defined by the Commission; and (e) the transportation of traffic originating at, destined to, or interchanged with, connecting carriers at Chicago, Ill., and points in its commercial zone, as defined by the Commission.

No. MC 22229 (Deviation No. 23), TERMINAL TRANSPORT COMPANY, INC., 248 Chester Ave., S.E., Atlanta, Ga. 30316, filed May 27, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Atlanta, Ga., over Interstate Highway 85 to Petersburg, Va., thence over Interstate Highway 95 to junction Interstate Highway 495 south of Washington, D.C., thence over Interstate Highway 495 around Washington, D.C. to the East thereof to junction Interstate Highway 95 north of Washington, D.C., thence over Interstate Highway 95

to junction Interstate Highway 695 south of Baltimore, Md., thence over Interstate Highway 695 around Baltimore, Md., to the West thereof to junction Interstate Highway 83, thence over Interstate Highway 83 to junction Interstate Highway 81 near Harrisburg, Pa., thence over Interstate Highway 81 to junction Interstate Highway 84 near Scranton, Pa., thence over Interstate Highway 84 to junction Interstate Highway 86 near Hartford, Conn., thence over Interstate Highway 86 to junction Interstate Highway 90 East of Boston, Mass., thence over Interstate Highway 90 to Boston, Mass., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Atlanta, Ga., over U.S. Highway 41 to Nashville, Tenn., thence over U.S. Highway 31E to junction Kentucky Highway 70, thence over Kentucky Highway 70 to Cave City, Ky., thence over U.S. Highway 31W to Louisville, Ky., thence over U.S. Highway 42 to Cincinnati, Ohio, thence over Interstate Highway 71 to Cleveland, Ohio, thence over U.S. Highway 20 to Erie, Pa., thence over Pennsylvania Highway 5 to the Pennsylvania-New York State Line, thence over New York Highway 5 to Buffalo, N.Y., thence over New York Highway 33 to Rochester, N.Y., thence over New York Highway 31 to junction New York Highway 234, thence over New York Highway 234 to Vernon, N.Y., thence over New York Highway 5 to Albany, N.Y., thence over U.S. Highway 20 to Boston, Mass., and return over the same route.

### Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Commission's Deviation Rules—Motor Carriers of Passengers (49 CFR § 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules (49 CFR § 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

### MOTOR CARRIERS OF PASSENGERS

No. MC 109736 (Deviation No. 9), CAPITOL BUS COMPANY, 1061 S. Cameron St., Harrisburg, Pa. 17105, filed May 24, 1976. Carrier's representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Bldg., Pennsylvania Ave. & 13th St., N.W., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction Interstate Highway 495 and Maryland Highway 190 (River Road) over Maryland Highway 190 to Western Ave., thence over Western Ave. to junction U.S. Highway 240 (Wisconsin Ave.), and (2) From junction Interstate Highway 495 and George Washington Memorial Parkway over George Washington Memorial Parkway to Key Bridge, thence over Key Bridge to Washington, D.C., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) From Gettysburg, Pa., over U.S. Highway 15 to Frederick, Md., thence over U.S. Highway 240 to Washington, D.C., and (2) From junction U.S. Highway 240 (Interstate Highway 70S) and Interstate Highway 270 over Interstate Highway 270 to junction Interstate Highway 495, thence over Interstate Highway 495 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction U.S. Highway 29 (also known as Fairfax Circle) and return over the same routes. Restriction: Said operations in (1) above, are restricted (1) against the pick-up of passengers at Frederick, Md., on southbound trips, and (2) against the discharge of passengers at Frederick, Md., on northbound trips.

By the Commission.

[SEAL] Robert L. Oswald,
*Secretary.*

[FR Doc.76-16732 Filed 6-9-76;8:45 am]

federal register

THURSDAY, JUNE 10, 1976




PART II:

# ENVIRONMENTAL PROTECTION AGENCY

■

# MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY

## Effluent Guidelines and Standards; Interim Rule and Notice of Proposed Rule Making

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 557-1]

## PART 436—MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY

### Interim Final Rule Making

Notice is hereby given that effluent limitations and guidelines for existing sources to be achieved by the application of best practicable control technology currently available as set forth in interim final form below are promulgated by the Environmental Protection Agency (EPA). The regulation set forth below amends Part 436—mineral mining and processing point source category and will be applicable to existing sources for the crushed stone subcategory (subpart B), the construction sand and gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D), and the phosphate rock subcategory (Subpart R) of the mineral mining and processing point source category pursuant to sections 301, and 304(b) and (c), of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311 and 1314(b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act). Simultaneously, the Agency is publishing in proposed form effluent limitations and guidelines for existing sources to be achieved by the application of best available technology economically achievable, standards of performance for new point sources and pretreatment standards for new sources. These latter limitations and guidelines are published for the above four subcategories (Subparts B, C, D and R) and also for those subcategories for which effluent limitations and guidelines representing the best practicable control technology currently available were promulgated on October 6, 1975. At that time the best available technology economically achievable, standards of performance for new point sources and pretreatment standards for new sources were not specified. A description and discussion of this legal authority is contained in Appendix A to this preamble.

The mineral mining and processing point source category was first studied to determine whether separate limitations are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations for different segments of the point source category. The raw waste characteristics for each such segment were then identified. The control and treatment technologies existing within each segment were identified in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. This information was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available." The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions. A substantial summary of the method of study, the several factors considered in subcategorization and the conclusions reached are set forth as Appendix B to this preamble.

The report entitled "Development Document for Interim Final Effluent Limitations Guidelines and New Source Performance Standards for the Mineral Mining and Processing Point Source Category" details the analysis undertaken in support of the interim final regulation set forth herein and is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St. S.W., Washington, D.C., at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

When this regulation is promulgated in final rather than interim form, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document will be available through the National Technical Information Service, Springfield, VA 22151.

Prior to this publication, many agencies and groups were consulted and given the opportunity to participate in the development of these limitations, guidelines and standards. All participating agencies have been informed of project developments. Initial drafts of the Development Documents were sent to all participants and comments were solicited on those reports. A summary of these comments and the agencies' response and consideration of these is contained in Appendix C to this preamble.

The Agency has made a study of the costs and economic and inflationary impacts of this regulation. It is estimated that the capital cost of complying with the limitations based on the best practicable control technology currently available will be $23.9 million. There will be no significant additional costs of complying with regulations based on the best available control technology economically achievable. There will be no cost of complying with pretreatment standards for new sources. The total annual operating costs for these requirements is estimated to be $10.1 million. The proposed new source performance standards are identical to the limitations representing the best available technology economically achievable. Hence, the costs per ton of product will be the same. These costs and the resultant economic and inflationary impact are briefly discussed in Appendix B to this preamble and are substantially detailed in the economic analysis document. It is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order No. 11821.

The Agency is subject to an order of the United States District Court for the District of Columbia entered in *Natural Resources Defense Council* v. *Train* et al. (Cv. No. 1609-73) which requires the promulgation of regulations for this industry category no later than June 1, 1976. This order also requires that such regulations become effective immediately upon publication. In addition, it is necessary to promulgate regulations establishing limitations on the discharge of pollutants from point sources in this category so that the process of issuing permits to individual dischargers under section 402 of the Act is not delayed.

It has not been practicable to develop and publish regulations for this category in proposed form, to provide a 60 day comment period, and to make any necessary revisions in light of the comments received within the time constraints imposed by the court order referred to above. Accordingly, the Agency has determined pursuant to 5 U.S.C. § 553(b) that notice and comment on the interim final regulations would be impracticable and contrary to the public interest. Good cause is also found for these regulations to become effective immediately upon publication.

Interested persons are encouraged to submit written comments. Comments should be submitted in triplicate to the Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: Distribution Officer, WH-552. Comments on all aspects of the regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the amendment or modification of the regulation. In the event comments address the approach taken by the Agency in establishing an effluent limitation or guideline EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301 and 304(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference

Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, S.W., Washington, D.C. A copy of the preliminary draft contractor reports, the Development Document and economic study referred to above, and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before August 9, 1976, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973, (38 FR 21202). In the event that the final regulation differs substantially from the interim final regulation set forth herein the Agency will consider petitions for reconsideration of any permits issued in accordance with these interim final regulations.

In consideration of the foregoing, 40 CFR Part 436 is hereby amended as set forth below.

(Secs. 301, 304 (b) and (c), 306(b) and 307(c), Federal Water Pollution Control Act, as amended (the Act); (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317(c)); 86 stat. 816 et seq.; Pub. L. 92-500)

Dated: May 26, 1976.

JOHN QUARLES,
*Acting Administrator.*

APPENDIX A

LEGAL AUTHORITY

(1) Existing point sources.

Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301(b)(1) and 304(b) of the Act, for the crushed stone subcategory (Subpart B), the construction sand and gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D) and the phosphate rock subcategory (Subpart R) of the mineral mining and processing point source category. The regulation herein also sets forth effluent limitations and guidelines, pursuant to sections 301(b)(2) and 304(b) of the Act, for the crushed stone subcategory (Subpart B), the construction sand and gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D), the gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the fluorspar subcategory (Subpart K), the salines from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the phosphate rock subcategory (Subpart R), the Frasch sulfur subcategory (Subpart S), the bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jade subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the tripoli subcategory (Subpart AF), and the graphite subcategory (Subpart AL) of the mineral mining and processing point source category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report entitled "Development Document for Interim Final Effluent Limitations Guidelines and New Source Performance Standards for the Mineral Mining and Processing Point Source Category" provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(2) New sources.

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306 also requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306 of the Act. The regulation proposed herein sets forth the standards of performance applicable to new sources for the crushed stone subcategory (Subpart B), the construction sand and gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D), the gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the fluorspar subcategory (Subpart K), the salines from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the phosphate rock subcategory (Subpart R), the Frasch sulfur subcategory (Subpart S), the bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jade subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the tripoli subcategory (Subpart AF), and the graphite subcategory (Subpart AL) of the mineral mining and processing point source category.

(3) Pretreatment for new sources.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. In another section of the FEDERAL REGISTER regulations are proposed in fulfillment of these requirements which may not be fulfilled by this interim final regulation.

APPENDIX B

TECHNICAL SUMMARY AND BASIS FOR REGULATIONS

This Appendix summarizes the basis of interim final effluent limitations and guidelines for existing sources, proposed effluent limitations and guidelines for existing sources to be achieved by the application of the best available technology economically achievable, proposed standards of performance for new sources, and proposed pretreatment standards for both new and existing sources.

(1) General methodology.

The effluent limitations and guidelines set forth herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in the operation and the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which is existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the nonwater quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, nonwater quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit appli-

cations, EPA sampling and inspections, consultant reports, and industry submissions.

(2) Summary of conclusions with respect to the crushed stone subcategory (Subpart B), the construction sand and gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D) and the phosphate rock subcategory (Subpart R) of the mineral mining and processing point source category.

A summary of conclusions for the gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the fluorspar subcategory (Subpart K), the salines from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the Frasch sulfur subcategory (Subpart S), the bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jade subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the tripoli subcategory (Subpart AF), and the graphite subcategory (Subpart AL) was given in the FEDERAL REGISTER on October 16, 1975 (40 FR 48652). That discussion also applies to the proposed limitations and standards.

(i) Categorization.

For the purpose of studying waste treatment and establishing effluent limitations guidelines and standards of performance, the mineral mining and processing category was divided into 38 discrete subcategories. These subcategories consist of specific mineral types or classes of minerals. In addition, within each subcategory a determination was made whether subparts required different effluent limitations based on type of ore, method of ore transport, type of processing, use of wet air emissions control devices, type of product, and ground water seepage and runoff into the mine and process waste water impoundments. For the four commodities, crushed stone, construction sand and gravel, industrial sand and phosphate rock, the processing techniques were sufficiently different to form four separate subcategories. In addition, within each subcategory there were different processes used and separate consideration was given to each as given in the following list.

Crushed stone: dry processing, wet processing, flotation processing, mine dewatering, area runoff.

Construction sand and gravel: dry processing, wet processing, dredging with land processing, dredging water, other process water, mine dewatering, area runoff.

Industrial sand: dry processing, wet processing, acid and alkali flotation, HF flotation, mine dewatering, area runoff.

Phosphate rock: flotation processing, other processing, mine dewatering, area runoff.

Upon completion of the technical and economic analysis several processes within a given commodity were combined because of the feasibility of achieving a common effluent limitation. Hence, the dry, wet and flotation processing of crushed stone were combined. Dry and wet processing of construction sand and gravel were combined. Dry, wet and acid and alkali flotation processing of industrial sand were combined. Dredge water discharge from land based construction sand and gravel plants is not regulated at this time pending further study. Dredging and on-board processing in navigable waters are regulated by the Corps of Engineers pursuant to section 404 of the Act. Area runoff is likewise not regulated at this time unless the runoff enters process or mine dewatering waste water impoundments.

(ii) Waste characteristics.

The known significant pollutants and properties resulting from the four subcategories covered include pH and total suspended solids. Fluoride is present in the process waste waters of the HF flotation, industrial sand subcategory. Although fluoride, phosphate and radium 226 exist in the waste waters from the phosphate rock subcategory, control of total suspended solids to the promulgated limits will also control these pollutants.

(iii) Origin of waste water pollutants.

The sources of waste water pollutants at the mine include surface runoff of rain water into the mine and mine water treatment systems, ground water seepage and infiltration into the mine, and process water used to transport the ore to the processing plant. The quantity of mine water is either unrelated or only indirectly related to the mine production rate. Therefore, effluent limitations are expressed in terms of concentration rather than units of production.

Mine dewatering is defined as any water that is pumped, drained or otherwise removed from the mine through the direct action of the mine operator. Pit pumpage of ground water, seepage and precipitation or surface runoff entering the active mine workings is an example of mine dewatering. Mine dewatering discharges are regulated. Runoff that is not classified as mine dewatering or does not commingle with process generated waste water is not regulated at this time. Preliminary information indicates that a significant economic impact could result if stringent limitations were promulgated. Therefore, regulations covering plant and mine runoff will not be promulgated until additional information is assessed.

The sources of waste water pollutants at the process facility include transport water, ore and product wash water, dust suppression water, classification water, heavy media separation water, flotation water, solution water, air emissions control equipment water and equipment and floor wash down water. Where production could be related to process water flow, the effluent limitations are tied to the units of production. In cases where uncontrolled volumes of water, such as mine dewatering, are normally mixed with process water or in cases where process water flow cannot be related to the rate of production, the effluent limitations for process waste water are expressed in terms of concentration.

(iv) Treatment and control technology.

Waste water treatment and control technologies have been studied for each subcategory of the industry to determine what is the best practicable control technology currently available. The following discussion of treatment technology provides the basis for the effluent limitations guidelines. This discussion does not preclude the selection of other waste water treatment alternatives which provide equivalent or better levels of treatment.

In the following discussion normal weather conditions are assumed. In the event of an extreme precipitation event an allowance for unregulated discharge is made. The best practicable control technology currently available is that treatment systems be designed, constructed and maintained to treat waste water to the applicable effluent quality level during the 10-year 24 hour precipitation event. Successive storm events that in total exceed the 10-year 24 hour event will thus qualify for this exemption if the treatment systems are properly maintained.

The Agency has no data to show that an accumulation of dissolved solids occurs in the recirculation systems for subcategories in which no discharge of process generated waste water pollutants is required or that such an accumulation would prevent total recycle. However, the Agency has not inspected all of the approximately 10,000 aggregate operations. Therefore, a variance from the requirements of no discharge of process generated waste water pollutants may be warranted if the accumulated dissolved solids content of the water necessitates a blowdown discharge. This may also be the case if a change to the dry process, because of no discharge limitations, would adversely affect required product purity.

(1) Treatment for the crushed stone subcategory. Dry processing plants will have no discharge. Water at wet processing plants is used to wash the stone and control dust. The waste water is clarified in a settling pond and is usually of sufficient quality that it is recirculated directly to the process. If precautions are taken to preclude storm runoff and mine water from the treatment system, there will be no cause for a discharge. At facilities that use flotation, such as to obtain calcite, the waste flotation water can be used to wash the stone. Excess waste water can also be used for dust suppression.

Due to the nature of the hard rock in crushed stone quarries, water that collects on the quarry floor is quite clear. This water can originate from direct rainfall or ground water seepage into the quarry. It is poor practice to allow surface runoff to enter the quarry, and diversion ditches or berms can prevent this. Quarry water is collected in a low spot or sump, which is rarely designed to efficiently remove suspended solids. From this sump quarry water is pumped to the surface and discharged. Fortunately, despite such common poor practices as positioning the pump near the sump influent and allowing mine vehicles to drive through flooded areas, this water is typically of excellent purity. Data from several quarries demonstrate that a total suspended solids concentration of 30 mg/l need not be exceeded. In instances where the mine water quality may not meet this limitation, better water handling practices can be instituted. The sump can be enlarged to provide adequate settling time. The sump pump can be positioned opposite the sump influent. Pumping may be temporarily stopped to allow the water to clear. In extreme cases a settling pond at ground level may be built to provide additional settling time. The intermittent use of flocculants is a possible but unexpected alternative. In general mine dewatering for all subcategories is limited on a daily maximum basis only, since mine dewatering may occur on an intermittent basis.

(2) Treatment for the construction sand and gravel subcategory. Processing plants that do not use water have no process generated waste water discharge. Water at wet processing plants is used for ore washing, dust suppression, heavy media separation and classification. As is the case for crushed stone, process waste water can be completely recycled after clarification in settling ponds. A series of ponds is recommended in order to improve the settling efficiency and allow for dredging of the primary pond without having to discontinue recycle. The use of flocculants in the secondary ponds is sometimes practiced. After adequate clarification water, which may exceed water quality limits for total suspended solids, is good enough to recycle. For land-based processers, particularly small plants, treatment other than single settling ponds followed by recycle may be the only economically viable technology (Level C in the Development Document). The limitations, therefore, are based on this technology. In dredged ponds that are not navigable waters, process waste water is almost always returned to the ponds untreated

to maintain the water level. This is acceptable practice. Discharges from these ponds to navigable waters do not normally occur. Discharges from these ponds due to subsurface ground water intrusion are considered to be mine dewatering.

For dredging operations in navigable waters, slurry water pumped ashore is still under investigation. Few facilities operate in this mode. Land based processing facilities that do not slurry transport from the dredge can recycle process waste water as do other land based non-dredge operations.

If mine dewatering is practiced a total suspended solids concentration of 30 mg/l can be met by the use of well designed and operated settling ponds. Intermittent use of flocculants as practiced for process waste water treatment will aid in extreme cases. For sand and gravel plants, mine water is often treated in process waste water ponds. This practice is allowed, provided process waste water is recycled.

(3) Treatment for the industrial sand subcategory. This subcategory resembles the construction sand and gravel subcategory except that additional beneficiation is done. The best facilities recycle all process waste water afer settling in ponds. Certain operations require fresh water make-up, but this excess is balanced by water lost through evaporation, product drying and sludge disposal. Clarifiers are used at some locations to increase settling efficiency and to minimize the treatment area. However, this latter technology is not economically feasible for all plants. Therefore the limitations are based on the technology of settling and recycle (Level B in the Development Document). Sludge disposal can present problems if a watershed is dammed and an excess of runoff enters the sludge pond. This runoff can be diverted around the impoundment and the supernatant pond water returned to the process water system.

There is one plant that uses hydrofluoric acid in the flotation circuit. At the present time this facility is able to recycle about 90% of the process waste water. Total recycle is claimed to hinder the HF flotation of feldspar. The daily maximum for total suspended solids was based on plant data.

Industrial sand mines are identical to sand and gravel mines and the same reasoning for the mine dewatering limitation applies.

(4) Treatment for the phosphate rock subcategory. There are two types of processing operations that effect the process waste water in different ways. Facilities that practice flotation with amines, fatty acids and other reagents experience interference when excessive concentrations of impurities build-up in a total recirculation system. A discharge may then be necessary. There is some leeway for partial recirculation, and these facilities are urged to recycle as much as possible. Because large amounts of mine water, runoff and rainfall can enter the treatment system, the limitations are expressed in terms of concentration. Although radium 226, phosphate and fluoride are present in the waste water, the existing treatment systems are not designed to specifically remove these pollutants. Furthermore, additional treatment of these pollutants to concentrations below present levels is not judged to be practicable. Effective control of total suspended solids should adequately control these pollutants. Facilities that do not float process the ore and non-flotation unit operations within flotation plants are able to use recycled waste waters.

Process waste water management is complicated by inclusion of mine drainage or of surface runoff if watersheds are dammed. This practice is acceptable in that large amounts of make-up water are needed, and the use of runoff minimizes the depletion of ground water. It is estimated that over 50 billion gallons annually are bound in the waste phosphate slimes. Thus, nonflotation plants are permitted to discharge to the specified limits if the damming of watersheds results in periodic overflow. These plants, however, must use this slime pond water as make-up water. Other sources of make-up water can be used only if no discharge will result. This same principle applies to flotation plants. Recycled water can be satisfactorily used as wash water, transport water, pumpseal water, and air scrubber water. Since a discharge will occur, because of the use of fresh water make-up for the flotation circuits and the inclusion of mine water and runoff into the process water system, the above listed nonflotation process water uses must not add to the discharge volume and the pollutant quantities by taking unnecessary fresh water into the process. Although total recycle of non-flotation process water can be achieved by use of separate waste water treatment systems for flotation and non-flotation waste waters, this is judged to be overly severe if universally applied.

A statistical analysis of the long term effluent data from several facilities shows that a total suspended solids concentration of 30 mg/l can be met as a maximum monthly average and 60 mg/l as a daily maximum. As noted in the Development Document several plants are meeting these limitations 100 percent of the time. Those plants that do not achieve the standards all of the time can upgrade their treatment system by various methods. Some plants are continuing to use their ponds beyond their useful life, thus discharging some of the sludge that has settled. One plant was observed to be fertilizing the inner pond walls and excessive aquatic growth apparently resulted which increased the total suspended solids level. Earthen ditches are frequently used to convey the pond overflow to the discharge point. Excessive flow rates through these ditches were observed to result in erosion to the walls. Larger channels with well compacted walls or concrete or pipe conveyances would minimize this problem. The use of wooden boards in overflow towers can result in significant leaks between the boards of subsurface levels of water in the impoundments which have higher levels of suspended solids.

(5) Solid wastes. Solid waste control must be considered. Most of the solid wastes for this category are inert solids. However, salt concentrates are ponded for the salines from brine lakes, borax, potash, and sodium sulfate subcategories. Best practicable control technology as known today, requires disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In most cases these are nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to insure long-term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate legal and mechanical precautions (e.g. impervious liners) should be taken to ensure long term protection to the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of legal jurisdiction.

(v) Cost estimates for control of waste water pollutants.

The costs estimated to result from the promulgated regulations are listed below.

[In thousands]

| Subcategory | Capital costs | Annual costs |
|---|---|---|
| Crushed stone | $12,420 | $6,548 |
| Construction sand and gravel | 7,460 | 2,283 |
| Industrial sand | 644 | 169 |
| Phosphate rock | 3,340 | 1,056 |
| Total | 23,864 | 10,056 |

(vi) Energy requirements and nonwater quality environmental impacts.

The additional energy requirements are estimated as follows:

| Mineral: | *mil kw hrs per yr* |
|---|---|
| Crushed stone | 140 |
| Construction sand and gravel | 22.7 |
| Industrial sand | 8 |
| Phosphate rock | 42.3 |
| Total | 213 |

These figures are conservative in that the savings in not pumping as much fresh water as make-up were not subtracted.

The regulations will increase the amount of solid wastes. Assuming that only a few plants are discharging untreated raw wastes, however, the increased amount of solid wastes resulting from recirculation systems is small when compared to the sludge currently deposited in an adequately maintained settling pond prior to acceptable discharge of the clarified water.

(vii) Economic impact analysis.

The impact of these regulations on phosphate mining and processing are not expected to be significant. Prices may increase about $0.11 per ton, or less than 1 percent over mid-1974 levels of $12.10 per ton. No plants are expected to close, and the effects on the balance of trade will be minimal.

Overall production of the crushed stone industry will not be affected by the guidelines. Several hundred plants which presently have no treatment and which are unable to pass control costs on are likely to shift from production of both dry processed and wet processed stone to entirely dry processing. Depending on the local market characteristics, the price for crushed stone could remain stable or increase up to 8 percent. No closures will occur.

The economic analysis of the sand and gravel industry indicated that the only technology which is economically viable is a settling pond with recycle. More extensive treatment which involves additional ponds or flocculation may be feasible for some plants but is considered to be economically impracticle in general. In particular, plants which have no treatment at present and are in a large metropolitan market will be unable to install treatment past settling and recycle. Therefore, the BPT limitations are based on a technology of settling and recycle. The price of sand and gravel may increase from between $0.04 to $0.20 per ton in small cities or rural areas. Up to 26 plants in major metropolitan areas which have to absorb control costs may close. These plants represent a total of 0.3 percent of the present national production and are a very small proportion of the 5,150 operations in the industry. The closures could result in the loss of work for up to 86 persons but are not expected to affect local economies.

The price of industrial sand will increase less than 1 percent over present levels of about $5 to $7 per ton. Because plants requiring mechanical thickening which have no treatment at present could be seriously impacted, it has been determined that this option is economically infeasible. Settling with recycle is the technology on which the best

practicable technology guidelines are based. Therefore, no closures are predicted, and local economies, unemployment, industry growth and the balance of trade will not be significantly affected.

## APPENDIX C

### SUMMARY OF PUBLIC PARTICIPATION

Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of effluent limitations, guidelines and standards proposed for the mineral mining and processing category. All participating agencies have been informed of project developments. An initial draft of the Development Document was sent to all participants and comments were solicited on that report. The following are the principal agencies and groups consulted: (1) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) all State and U.S. Territory Pollution Control Agencies; (3) the Ohio River Valley Sanitation Commission; (4) the Delaware River Basin Commission; (5) the New England Interstate Water Pollution Control Commission; (6) U.S. Department of Commerce; (7) U.S. Department of the Interior; (8) U.S. Department of Defense; (9) U.S. Department of Agriculture; (10) U.S. Department of Transportation; (11) U.S. Department of Health, Education and Welfare; (12) U.S. Department of Housing and Urban Development; (13) U.S. Department of Treasury; (14) Tennessee Valley Authority; (15) Council of Environmental Quality; (16) National Commission on Water Quality; (17) Federal Power Commission; (18) Federal Energy Administration; (19) Office of Management and Budget; (20) Internal Revenue Service; (21) Nuclear Regulatory Commission; (22) The American Society of Mechanical Engineers; (23) The Conservation Foundation; (24) Businessmen for the Public Interest; (25) Environmental Defense Fund, Inc.; (26) Natural Resources Defense Council, Inc.; (27) The American Society of Civil Engineers; (28) Water Pollution Control Federation; (29) National Wildlife Federation; (30) Gypsum Association; (31) Indiana Limestone Institute of America; (32) Marble Institute of America; (33) National Crushed Stone Association; (34) National Industrial Sand Association; (35) National Limestone Institute; (36) National Sand and Gravel Association; (37) American Mining Congress; (38) Asbestos Information Association of North America; (39) Barre Granite Association; (40) Brick Institute of America; (41) Building Stone Institute; (42) The Fertilizer Institute; (43) Florida Limerock Institute; (44) Florida Phosphate Council; (45) North Carolina Minerals Association; (46) North Carolina Sand, Gravel and Crushed Stone Association; (47) Portland Cement Association; (48) The Refractories Institute; (49) Salt Institute; (50) Sorptive Minerals Institute; (51) National Clay Pipe Institute; (52) National Lime Association; (53) Environmental Protection Service, Canada; (54) Manufacturing Chemists Association; and (55) Georgia Association of Mineral Producing Industries.

The following responded with comments: Effluent Standards and Water Quality Information Advisory Committee; Southwestern Graphite Co.; Indiana Limestone Institute of America; Delaware Department of Natural Resources and Environmental Control; Gypsum Association; Illinois State Geological Survey; Swift Chemical Co.; Illinois Association of Aggregate Producers; American Aggregates Corp.; Texas Water Quality Board; North Carolina Industrial Mineral Association; Brick Institute of America; International Minerals and Chemicals Corp.; Asbestos Information Association; American Mining Congress; The Feldspar Corp.; Sobin Chemicals, Inc.; Harris Mining Co.; Water Resources Commission, Michigan; Winter Brothers Material Co.; Illinois Environmental Protection Agency; Waverly Mineral Products Co.; Department of Natural Resources, Georgia; U.S. Water Resources Council; Colorado Department of Health; Ohio Environmental Protection Agency; State of Florida Department of Pollution Control; Department of Health, Education, and Welfare; Delta Materials, Inc.; Harry T. Campbell Sons' Co.; Bethlehem Steel Corp.; Ingram Materials, Inc.; National Lime Association; Cape Girardeau Sand Co.; Becker Sand and Gravel Co.; New York State Department of Environmental Conservation; Unsil Corp.; U.S. Department of Agriculture; National Sand and Gravel Association; National Industrial Sand Association; U.S. Department of Transportation; Freeport Minerals Co.; Erie Sand and Gravel Co.; The Georgia Kaolin Co.; American Limestone Co.; The Refractories Institute; State of Indiana Department of Natural Resources; Atlantic Richfield Co.; Ottawa Silica Co.; American Sand and Gravel Co.; Globe Refractories; CF Industries; Mr. David Branfman; Duval Corp.; Milchem—Mineral Division; Great Salt Lake Minerals and Chemicals Co.; Morton Salt Co.; Dresser Industries; Environmental Protective Service, Canada; J. R. Simplot Co.; U.S. Borax; Englehard Minerals and Chemicals Corp.; The Fertilizer Institute; North Carolina Department of Natural and Economic Resources; Commonwealth of Pennsylvania, Department of Environmental Resources; Freeport Sulfur Co.; American Industrial Clay Co.; National Limestone Institute; Thiele Kaolin Co.; Cyprus Minerals Co.; Anglo-American Clay Corp.; Gardinier, Inc.; Assistant Secretary of Defense; Jefferson Lake Sulfur Co.; National Clay Pipe Institute; Kerr-McGee Corp.; International Minerals and Chemical Corp.; J. M. Huber Corp.; Freeport Kaolin Co.; Lithium Corporation of America; Foote Mineral Co.; New Riverside Ochre Co.; TexasGulf Inc.; Agrico; Basic Inc.; Brewster Phosphates, USS Agri-Chemicals; W. R. Grace and Co.; Kaiser Refractories; Morton Salt Co.; Martin Marietta; Ozark-Mahoning Co.; Florida Phosphate Council; Salt Institute; Sorptive Minerals Institute; Manufacturing Chemists Association; Kaiser Cement and Gypsum Corp.; U.S. Department of the Interior; Lone Star Industries, Inc.; Monsanto; The Fertilizer Institute; General Refractories Co.; Allied Chemical; Pfizer, Minerals, Pigments and Metals Division; North American Refractories Co.; GAF Corp.; National Wildlife Federation; Kaiser Cement and Gypsum Association; Ideal Basic Industries; Martin Marietta Cement; Huron Cement; Southwestern Portland Cement Co.; Lehigh Portland Cement Co.; General Portland, Inc.; Medusa Cement Co.; Portland Cement Association; Flintkote Co., Calaveras Cement Division; A. P. Green Refractories Co.; Evansville Materials, Inc.; Conrock Co.; Mulzer Crushed Stone Co.; Martin Marietta Cement; Pennsylvania Glass Sand Corp.; Cooley Gravel Co.; and National Crushed Stone Association.

A large number of comments were received long after the period of comment had expired. These comments were assessed as time was available. With few exceptions these late comments express the same interests as described below. The more significant issues raised in the development of the interim final effluent limitations and guidelines and the treatment of these issues herein are as follows:

(1) There was considerable comment on the requirement of treating mine and plant area runoff until reclamation is successfully completed and of diverting storm runoff away from mines and process waste water impoundments.

Only two areas involving runoff will be regulated at this time, mine dewatering and runoff into waste water treatment systems. Mine dewatering is defined as any water that is pumped, drained or otherwise removed from the mine through the direct action of the mine operator. Pit pumpage of ground water, seepage and precipitation or surface runoff entering the active mine workings is an example of mine dewatering. Mine operators are encouraged to divert surface runoff away from the active mine workings. Surface runoff that enters a waste water treatment system becomes waste water and must meet the appropriate effluent limitation. In the case of limitations specifying no discharge of process waste water pollutants, diversion of storm waters around the impoundments may be necessary.

(2) Many of the commenters suggested that the pH range 6–9 should be expanded because some natural waters have a pH less than 6.

In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted. This problem was noted by plants in the crushed stone, construction sand and gravel, and industrial sand subcategories. In particular for the phosphate subcategory this situation has not been commented on by the industry, and allowing a lower pH could have the adverse effect of dissolving radium 226 in the sludge.

(3) Some commenters recommended that the effluent limitations should be applied on a net basis, especially where no discharge of pollutants is required.

The Agency has promulgated regulations (40 CFR Part 125) concerning the net or gross application of effluent standards. Prior to the time of permit issuance an affected plant can petition for a net limit if the applicant demonstrates that specified pollutants which are present in the applicant's intake water will not be removed by waste water treatment systems designed to reduce process waste water pollutants and other added pollutants to the levels required by the applicable limitations or standards. The effluent limitations promulgated are based on the gross discharge of pollutants.

(4) Three commenters insisted that process waste water should be defined to omit that water which contacts the ore before it is mined.

Process waste water does not include mine runoff contacting the ore unless this water enters the process waste water treatment system. The term process generated waste water is used to clarify this.

(5) There were objections to the omission of total dissolved solids (TDS) and of certain constituents of TDS such as calcium, magnesium, and nitrates from the limitations. In addition one company wanted to be able to exceed the water quality standards for TDS.

Total dissolved solids are limited where the effluent limitation specifies no discharge of process waste water pollutants. In this case the limitation can be met by total recycle or impoundment with no discharge. For those subcategories with limitations other than no discharge of pollutants it is not economically practicable to treat for total dissolved solids or certain constituents of TDS such as calcium, magnesium and nitrates. This does not relieve the discharger from meeting applicable water quality standards.

(6) It was suggested that for the phosphate subcategory the subcategorization not be based on Eastern versus Western operations because new operations in the West that may slurry transport the ore will not be able to achieve no discharge of pollutants. Another commenter suggested that Tennessee operations be subcategorized separately from Florida and North Carolina operations.

Eastern operations, especially those in Florida and North Carolina cannot now achieve a permanent no discharge condition because of excessive mine water and the need to principally use fresh make-up water in the flotation circuit. The subcategorization has been redefined to distinguish between flotation processes and other processing and mine dewatering. It is not universally practicable to separate all mine water, rainfall and runoff and process waste water for this subcategory. Thus the limitations allow a discharge for flotation process water, mine dewatering and excess rainfall and runoff into process waste water impoundments. Slurry water is recycled at all existing plants and this practice is incorporated into the criteria used to determine the new source performance standards. Hence all new plants, Eastern or Western, will have to recycle this water.

(7) Several phosphate mining companies suggested that fluoride and phosphorus not be regulated since the present treatment systems are not designed to specifically remove these parameters. In addition it was contested their presence is due to the suspended solids which are regulated.

Upon review of the contractor's data, additional plant inspections by EPA personnel and data submitted by this industry it was found that only pH and TSS need be regulated by effluent limitations guidelines at this time. The phosphate and fluoride concentrations appeared to be affected both by the quality of the well water intake and to their presence in suspended solids which are treated. Specific treatment for these pollutants was judged to be prohibitively expensive.

(8) It was suggested that the limits for the phosphate subcategory be in units of mg/l instead of kg/kkg since mine water, runoff and process water are one and the same, and this combined flow cannot be related to production. A TSS limit of 30 mg/l as an average and 150 mg/l as a daily maximum was suggested.

Because mine water, runoff and process waste water cannot be economically segregated, the units of the limits are more appropriate as concentrations. A statistical analysis of data from several plants indicates that a well designed and operated slime pond can achieve 30 mg/l TSS as a maximum monthly average and 60 mg/l as a daily maximum.

(9) There was considerable comment on the contractor's recommendations concerning dredging for sand, gravel and shell.

Discharges from dredges mining mineral deposits in navigable waters are regulated under section 404 of the "Permits for Dredged or Fill Material." Discharges originating from hydraulic dredges that pump to shore for processing are not regulated by these effluent limitations pending additional investigation. Other discharges from shore based plants are regulated.

(10) One commenter questioned whether the return flow of process waste to dredged pits need to meet no discharge of process waste water pollutants.

The limits are only to be applied to point source discharges to navigable waters. Hence the standards only apply to the discharge of the pit to navigable waters if the pit itself is a non-navigable water.

(11) One aggregate processing company claimed that it will discharge water from its treatment pond system as it tries to match the water lost by evaporation and percolation with fresh water intake.

Adequate control of the intake water volume will prevent treatment pond overflow in this case.

(12) One commenter claimed that not enough sand, gravel and crushed stone plants were visited.

Approximately 57 sand and gravel and 37 crushed stone plants were visited by the EPA contractor. It would be impossible to visit all 10,000 plants and it is questionable whether much additional treatment technology information would be gained by doing so. Plant inspection selection was decided after consultation with national and state trade associations. These plants are of various sizes and property dispositions. The plants visited are therefore considered to be a good sample of the industry. The comment period to the draft reports allowed companies not inspected to describe their particular situations.

(13) The land cost was claimed to be too low for the treatment of process waste waters.

The land cost factor was an average value. The economic analysis indicates that even if the total treatment costs were significantly higher the results would be the same.

(14) One commenter complained that the cost of recycling water will increase as new ponds are located farther from the process equipment.

The newer plants have usually taken this into acount when the plant was constructed. Common practice for older plants include moving the plant to a more favorable location, pumping farther distances to new treatment ponds or dredging the existing ponds to prolong their life. The tailings from dredging may be disposed of in inactive sections of the mine.

(15) Another commenter suggested that portable aggregate processing plants should be a separate subcategory.

Portable crushed stone plants were studied by the contractor and there is no reason why they cannot recycle process waste water as do permanent processing facilities. At a minimum a treatment pond should already exist at portable plant locations, and this system can be modified to recycle the waste water. Further subcategorization is therefore not necessary.

(16) Instead of no discharge of pollutants for process water, a national trade association recommended that both mine water and process water for sand and gravel be limited to 100 mg/l TSS.

Many sand and gravel plants in different parts of the United States were found to achieve no discharge of process waste water. The limitations for best practicable control technology currently available are based on the average performance of the best existing treatment rather than on what most plants currently achieve. The technologies cited in the development document are applicable to those that presently do not recycle process waste water.

(17) Some sand and gravel commenters pointed out that there can be land availability problems in building treatment ponds and in disposing sludge.

Alternative treatments can be employed if sufficient land is unavailable to construct large settling ponds. These technologies include flocculants, cyclones, clarifiers, or thickeners used in conjunction with smaller settling ponds. However, the economic analysis indicated that should treatments other than simple settling and recycle be necessary, operations could suffer severe economic impacts and possibly close. Therefore, the limitations are only based on the basic settling pond treatment. Section 436.32 for sand and gravel specifies the manner for seeking relief in unusual situations.

In the case where commenters claim that total recycle will result in an unmanageable amount of additional sludge, the EPA believes this is overstated. The additional sludge resulting from settling the solids for an existing discharge, were it to be recycled and hence the suspended solids ultimately settled, are minor compared to the several thousand miligrams per liter of suspended solids that need be settled from the raw waste before a discharge would be ever acceptable.

(18) One plant operator claimed that when a new quarry face is opened the quarry sump will not be able to achieve the proposed limits for TSS.

Proper location of the quarry sump or the use of an additional settling pond will prevent this problem.

(19) Some commenters observed that no discharge of process waste water is not possible from a dredged pit if ground water intrusion into the pit is high.

Excess water discharged from wet pits due to direct rainfall and ground water seepage is classified as mine dewatering and is regulated under the combined discharges clause.

(20) One person complained that dry processing plants which have wet scrubbers must discharge and cannot achieve the no discharge standards.

Dry processing plants that use scrubbers are totally recycling this process waste water after adequate settling.

(21) A few crushed stone companies complained of the severity of the mine dewatering limitation.

The mine dewatering limitation is based on existing plant data. Crushed stone quarries, because they are hard rock operations instead of strip mining operations involving much topsoil, are able to discharge mine water that is much cleaner than 30 mg/l of TTS. Discharges in excess of this are either due to inadequate sump or pond size or poor quarry practice such as allowing surface runoff to enter the quarry.

(22) Several commenters suggested that the 10- and 25-year 24 hour precipitation event criteria be replaced by the 1-year 24 hour event. This was claimed to be more cost beneficial because of the infrequency of the 10- and 25-year events.

There is some misunderstanding that the regulation language in the case of limitations specifying no discharge of process waste water pollutants would allow a discharge only once in 10 years when the respective event occurs. Constructing and operating impoundments to contain the 10-year event and even less frequent events is standard engineering practice. However, if closely spaced storms or a prolonged storm equals the 10-year event a discharge will occur for a pond so designed. Thus an allowable discharge of pollutants may occur more frequently depending upon the occurrence of major storm events. This storm event is defined by the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. It is determined by detailed statistical analysis. It is quite possible that more than one 24 hour rainfall in the last 10 years has exceeded the defined 10-year 24 hour event. Therefore, the agency cited above should be consulted rather than company records alone.

The draft recommendations suggesting treatment up to the 25-year 24 hour storm event for the 1983 limitations and the new source performance standards were replaced by the 10-year 24 hour storm event as required by the 1977 limitations. It is judged that for the pollutants present for this industry, principally suspended solids, little

added environmental benefit is gained by the added expenditures to heighten the impoundment walls or divert storm waters.

(23) It was contested that no discharge of process waste water pollutants for the industrial sand subcategory is too costly. A limit of 100 mg/l TSS was suggested.

The economic analysis evaluated several treatment options for achieving no discharge of process water. Because it was determined that plants requiring mechanical thickening could suffer a severe economic impact, the guidelines are only based on a technology of settling ponds and recycle. Based on this technology, the economic analysis indicated that the industrial sand industry would not be seriously impacted.

(24) There was confusion between what is included in the HF and wet processing divisions of the industrial sand subcategory.

Only an industrial sand plant that employs HF flotation is classified in the HF subcategory.

1. Part 436 is amended by adding the following sections to the table of contents.


**Subpart B—Crushed Stone Subcategory**

Sec.
436.20 Applicability; description of the crushed stone subcategory.
436.21 Specialized definitions.
436.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

**Subpart C—Construction Sand and Gravel Subcategory**

436.30 Applicability; description of the construction sand and gravel subcategory.
436.31 Specialized definitions.
436.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

**Subpart D—Industrial Sand Subcategory**

436.40 Applicability; description of the industrial sand subcategory.
436.41 Specialized definitions.
436.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

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**Subpart R—Phosphate Rock Subcategory**

436.180 Applicability; description of the phosphate rock subcategory.
436.181 Specialized definitions.
436.182 Effluent limitations guidelines representing the degree of effluent reduction attaintable by the application of the best practicable control technology currently available.


2. Subpart B is amended by adding §§ 436.20, 436.21 and 436.22 as follows:

## Subpart B—Crushed Stone Subcategory

### § 436.20 Applicability; description of the crushed stone subcategory.

The provisions of this subpart are applicable to the mining or quarrying and the processing of crushed and broken stone and riprap. This subpart includes all types of rock and stone. Rock and stone that is crushed or broken prior to the extraction of a mineral are elsewhere covered. The processing of calcite, however, in conjunction with the processing of crushed and broken limestone or dolomite is included in this subpart.

### § 436.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is pumped, drained or otherwise removed from the mine through the direct action of the mine operator.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land, surface or underground, actively used for or resulting from the extraction of a mineral from natural deposits.

(e) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

### § 436.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(1) There shall be no discharge of process generated waste water pollutants into navigable waters.

(2) Mine dewatering discharges shall not exceed the following limitations:

| *Effluent characteristic* | *Effluent limitations—maximum for any 1 day* |
|---|---|
| TSS | 30 mg/l. |
| pH | Within the range of 6.0 to 9.0. |

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitations for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

3. Subpart C is amended by adding §§ 436.30, 436.31 and 436.32 as follows:

## Subpart C—Construction Sand and Gravel Subcategory

### § 436.30 Applicability; description of the construction sand and gravel subcategory.

The provisions of this subpart are applicable to the mining and the processing of sand and gravel for construction or fill uses. The dredging of sand and gravel from navigable waters is regulated in 33 CFR Part 209, "Permits for Activities in Navigable Waters or Ocean Waters." Discharges from dredges in navigable waters resulting from the on-board processing of sand and gravel are also regulated in 33 CFR Part 209. Discharges from shore based facilities of waste water originating solely from the suction dredging of deposits in navigable waters are not included in this subpart.

§ 436.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is pumped, drained or otherwise removed from the mine through the direct action of the mine operator. This shall include wet pit overflows caused solely by direct rainfall and ground water seepage.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land, surface or underground, actively used for or resulting from the extraction of a mineral from natural deposits.

(e) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

§ 436.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(1) There shall be no discharge of process generated waste water pollutants into navigable waters.

(2) Mine dewatering discharges shall not exceed the following limitations:

| *Effluent characteristic* | *Effluent limitations—maximum for any 1 day* |
|---|---|
| TSS | 30 mg/l. |
| pH | Within the range of 6.0 to 9.0. |

(3) In the event that waste streams from various sources are combined for treatment and discharge, the quantity and quality of each pollutant or pollutant property in the combined discharge shall not exceed the quantity and quality of each pollutant or pollutant property allowed had each stream been treated separately.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

4. Subpart D is amended by adding §§ 436.40, 436.41 and 436.42 as follows:

## Subpart D—Industrial Sand Subcategory

§ 436.40 Applicability; description of the industrial sand subcategory.

The provisions of this subpart are applicable to the mining and the processing of sand and gravel for uses other than construction and fill. These uses include, but are not limited to glassmaking, molding, abrasives, filtration, refractories and refractory bonding.

§ 436.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is pumped, drained or otherwise removed from the mine through the direct action of the mine operator. This shall include wet pit overflows caused solely by direct rainfall and ground water seepage.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land actively used for a resulting from the extraction of a mineral from natural deposits.

(e) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

§ 436.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available, and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may

approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(1) Except for HF flotation facilities, there shall be no discharge of process generated waste water pollutants into navigable waters.

(2) Process generated waste water from facilities employing HF flotation shall not exceed the following limitations:

[Metric units, kg/kkg of total product; English units, lb/1,000 lb of total product]

| Effluent characteristic | Effluent limitations | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| TSS | 0.046 | 0.023 |
| Total fluoride | 0.006 | 0.003 |
| pH | Within the range 6.0 to 9.0. | |

(3) Mine dewatering discharges shall not exceed the following limitations:

| *Effluent characteristic* | *Effluent limitations—maximum for any 1 day* |
|---|---|
| TSS | 30 mg/l. |
| pH | Within the range of 6.0 to 9.0. |

(4) In the event that waste streams from various sources are combined for treatment and discharge, the quantity and quality of each pollutant or pollutant property in the combined discharge shall not exceed the quantity and quality of each pollutant or pollutant property allowed had each stream been treated separately.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

5. Subpart R is amended by adding §§ 436.180, 436.181 and 436.182 as follows:

## Subpart R—Phosphate Rock Subcategory

### § 436.180 Applicability; description of the phosphate rock subcategory.

The provisions of this subpart are applicable to the mining and the processing of phosphate bearing rock, ore or earth for the phosphate content.

### § 436.181 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is pumped, drained or otherwise removed from the mine through the direct action of the mine operator.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land, surface or underground, actively used for or resulting from the extraction of a mineral from natural deposits.

(e) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

### § 436.182 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(1) Process waste water generated from froth flotation operations, mine dewatering and surface runoff into waste water treatment systems shall not exceed the following limitations:

| Effluent characteristic | Effluent limitations | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| TSS, milligrams per liter | 60 | 30 |
| pH | Within the range 6.0 to 9.0 | |

(2) For all other process generated waste water, such as ore transport water, pump seal water, air scrubber water and ore wash water, there shall be no discharge of pollutants into navigable waters.

(3) In the event that waste streams from various sources are combined for treatment and discharge, the quantity and quality of each pollutant or pollutant property in the combined discharge shall not exceed the quantity and quality of each pollutant or pollutant property allowed had each stream been treated separately.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

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## ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 436]

[FRL 557-2]

### MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY

**Proposed Standards of Performance for New Sources and Pretreatment Standards for Existing and for New Source Categories**

Notice is hereby given that effluent limitations for existing sources and standards of performance and pretreatment standards for new sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA). On October 16, 1975 EPA promulgated a regulation adding Part 436 to Chapter 40 of the Code of Federal Regulations (40 FR 48652). That regulation established effluent limitations and guidelines for existing sources based on the best practicable control technology currently available for 17 subcategories of the mineral mining and processing point source category. Pretreatment standards for existing sources were proposed at that time for the same subcategories. The regulation proposed below will amend 40 CFR 436—mineral mining and processing point source category by adding sections 436.53, 436.55 and 436.56 to the gypsum subcategory (Subpart E); sections 436.63, 436.65 and 436.66 to the asphaltic minerals subcategory (Subpart F); sections 436.73, 436.75 and 436.76 to the asbestos and wollastonite subcategory (Subpart G); sections 436.103, 436.105 and 436.106 to the barite subcategory (Subpart J); sections 436.113, 436.115 and 436.116 to the fluorspar subcategory (Subpart K); sections 436.123, 436.125 and 436.126 to the salines from brine lakes subcategory (Subpart L); sections 436.133, 436.135 and 436.136 to the borax subcategory (Subpart M); sections 436.143, 436.145 and 436.146 to the potash subcategory (Subpart N); sections 436.153, 436.155 and 436.156 to the sodium sulfate subcategory (Subpart O); sections 436.193, 436.195 and 436.196 to the Frasch sulfur subcategory (Subpart S); sections 436.223, 436.225 and 436.226 to the bentonite subcategory (Subpart V); sections 436.233, 436.235 and 436.236 to the magnesite subcategory (Subpart W); sections 436.243, 436.245 and 436.246 to the diatomite subcategory (Subpart X); sections 436.253, 436.255 and 436.256 to the jade subcategory (Subpart Y); sections 436.263, 436.265 and 436.266 to the novaculite subcategory (Subpart Z); sections 436.323, 436.325 and 436.326 to the tripoli subcategory (Subpart AF); and sections 436.383, 436.385 and 436.386 to the graphite subcategory (Subpart AL) pursuant to sections 306(b) and 307 (b) and (c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1316(b) and 1317 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act). Simultaneously with this proposed rule making EPA is promulgating interim final regulations establishing effluent limitations and guidelines for existing sources based on the best practicable control technology currently available for four additional subcategories of the mineral mining and processing point source category. The regulation proposed below will also amend 40 CFR 436—mineral mining and processing point source category by adding sections 436.23, 436.25 and 436.26 to the crushed stone subcategory (Subpart B); sections 436.33, 436.35 and 436.36 to the construction sand and gravel subcategory (Subpart C); sections 436.43, 436.45 and 436.46 to the industrial sand subcategory (Subpart D); and sections 436.183, 436.185 and 436.186 to the phosphate rock subcategory (Subpart R). A description and discussion of the legal authority is contained in Appendix A to this preamble.

(a) Summary and basis of proposed limitations and standards.

The general methodology and summary of conclusions were discussed in considerable detail in the preamble of the interim final regulations published October 16, 1975 in the FEDERAL REGISTER (40 FR 48652) for the gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the fluorspar subcategory (Subpart K), the salines from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the Frasch sulfur subcategory (Subpart S), the bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jade subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the tripoli subcategory (Subpart AF), and the graphite subcategory (Subpart AL). The information contained in the preamble to that interim final regulation is incorporated herein by reference. The general methodology and summary of conclusions are discussed in considerable detail in the preamble and appendices of the interim final regulations for the crushed stone subcategory (Subpart B), the construction sand and gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D) and the phosphate rock subcategory (Subpart R) of the mineral mining and processing point source category which are being promulgated simultaneously with publication of this proposed regulation. The information contained in the preamble to the interim final regulation is incorporated herein by reference. The proposed regulation set forth below proposes pretreatment standards for new sources for pollutants introduced into publicly owned treatment works. The proposal will establish for each subpart the extent of application of effluent limitations to new sources which discharge to publicly owned treatment works. This regulation is intended to be complementary to the general regulation for pretreatment standards for existing sources set forth at 40 CFR 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982). The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the limitations and standards apply. However, the proposed pretreatment regulation applies to the introduction of pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories; "compatible" and "incompatible." Compatible pollutants are generally not subject to specific numerical pretreatment standards. However, 40 CFR 128.131 (prohibited wastes) may be applicable to compatible pollutants. Additionally, local pretreatment requirements may apply (See 40 CFR 128.110). Incompatible pollutants are subject generally to pretreatment standards as provided in 40 CFR 128.133.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations and guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

The report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Mineral Mining and Processing Industry" details the analysis undertaken in support of the regulation being proposed herein and is available for inspection in the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., S.W., Washington, D.C. 20460, at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the proposed regulation is also available for inspection at these locations. Copies of these documents are being sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of these documents are available. Persons wishing to obtain a copy may write the EPA Effluent Guidelines Division, Washington, D.C. 20460. Attention: Distribution Officer, WH-552.

When this regulation is promulgated, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Copies of the Economic Analysis will be available through the National Technical Information Service, Springfield, Virginia 22151.

(b) Summary of public participation. A full listing of participants and discussion of comments and responses to the draft Development Document is included in the preamble of the interim final regulation for the subcategories being simultaneously promulgated by EPA and are incorporated herein by reference. There were no substantive comments received on those 17 subcategories for which regulations were promulgated October 16, 1975 in the FEDERAL REGISTER (40 FR 48652) establishing effluent limitations and guidelines for existing sources based on the best practicable control technology currently available. No substantive comments were received on the corresponding proposed pretreatment standards for existing sources.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: Distribution Officer, WH-552. Comments on all aspects of the proposed regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing a standard of performance or pretreatment standard, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 306 and 307 (b) and (c) of the Act.

In addition to encouraging written comments on the proposed regulation, the Agency would like to encourage written comments on the problem of defining which activities and which land areas should be covered by this regulation.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A copy of preliminary draft contractor reports, the Development Document and economic analysis referred to above, and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before July 12, 1976, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

(Secs. 301, 304 (b) and (c), 306 (b) and (c), 307(c), Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c), 1317(c)); 86 Stat. 816 et seq.; Pub. L. 92-500.)

Dated: May 28, 1976.

JOHN QUARLES,
*Acting Administrator.*

APPENDIX A—LEGAL AUTHORITY

Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304 (b) of the Act, for the crushed stone subcategory (Subpart B), the construction sand and gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D), the gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the salines from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the phosphate rock subcategory (Subpart R), the Frasch sulfur subcategory (Subpart S), the bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jade subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the tripoli subcategory (Subpart AF), and the graphite subcategory (Subpart AL) of the mineral mining and processing point source category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report or "Development Document" referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306 (b)(1)(A) of the Act. On October 16, 1975 a notice appeared in the FEDERAL REGISTER titled "Addition to the List of Categories of Sources" (40 FR 48668). This notice added the mineral mining and processing point source category to those categories listed in 306(b)(1)(A) of the Act. The regulations proposed herein set forth the standards of performance applicable to new sources for the crushed stone subcategory (Subpart B), the construction sand and gravel category (Subpart C), the industrial sand subcategory (Subpart D), the gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the fluorspar subcategory (Subpart K), the salines from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Supart N), the sodium sulfate subcategory (Subpart O), the phosphate rock subcategory (Subpart R), the Frasch sulfur subcategory (Subpart S), the bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jade subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the tripoli subcategory (Subpart AF), and the graphite subcategory (Subpart AL) of the mineral mining and processing point source category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. Sections 436.26, 436.33, 436.46, 436.56, 436.66, 436.76, 436.106, 436.116, 436.126, 436.136, 436.146, 436.156, 436.186, 436.196, 436.226, 436.236, 436.246, 436.256, 436.266, 436.326, and 436.386, proposed below, provide pretreatment standards for new sources within the crushed stone subcategory (Subpart B), the construction sand and gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D), the gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the fluorspar subcategory (Subpart K), the salines from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the phosphate rock subcategory (Subpart R), the Frasch sulfur subcategory (Subpart S), the bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jade subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the tripoli subcategory (Subpart AF), and the graphite subcategory (Subpart AL) of the mineral mining and processing point source category.

Section 307(c) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR 128 establishes that the Agency will propose specific pretreatment standards at the time effluent limitations are established for point source discharges. However due cause is found to set aside for this regulation the applicability of that portion of 40 CFR 128.133 requiring the Agency to propose pretreatment standards concerning the application of effluent limita-

tions to pretreatment at the time such effluent limitations are promulgated. The Agency may establish pretreatment standards for existing sources within the mineral mining and processing point source category at a future date.

1. The table of contents is amended by adding the following sections.


**Subpart B—Crushed Stone Subcategory**

Sec.
436.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.24 [Reserved]
436.25 Standards of performance for new sources.
436.26 Pretreatment standards for new sources.

**Subpart C—Construction Sand and Gravel Subcategory**

436.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.34 [Reserved]
436.35 Standards of performance for new sources.
436.36 Pretreatment standards for new sources.

**Subpart D—Industrial Sand Subcategory**

436.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.44 [Reserved]
436.45 Standards of performance for new sources.
436.46 Pretreatment standards for new sources.

**Subpart E—Gypsum Subcategory**

436.51 Specialized definitions.
436.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.55 Standards of performance for new sources.
436.56 Pretreatment standards for new sources.

**Subpart F—Asphaltic Minerals Subcategory**

436.60 Applicability; description of the asphaltic minerals subcategory.
436.61 Specialized definitions.
436.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.65 Standards of performance for new sources.
436.66 Preatreatment standards for new sources.

**Subpart G—Asbestos and Wollastonite Subcategory**

436.71 Specialized definitions.
436.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.75 Standards of performance for new sources.
436.76 Pretreatment standards for new sources.

**Subpart J—Barite Subcategory**

Sec.
436.101 Specialized definitions.
436.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.105 Standards of performance for new sources.
436.106 Pretreatment standards for new sources.

**Subpart K—Fluorspar Subcategory**

436.111 Specialized definitions.
436.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.115 Standards of performance for new sources.
436.116 Pretreatment standards for new sources.

**Subpart L—Salines from Bring Lakes Subcategory**

436.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.125 Standards of performance for new sources.
436.126 Pretreatment standards for new sources.

**Subpart M—Borax Subcategory**

436.131 Specialized definitions.
436.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.135 Standards of performance for new sources.
436.136 Pretreatment standards for new sources.

**Subpart N—Potash Subcategory**

436.141 Specialized definitions.
436.143 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.145 Standards of performance for new sources.
436.146 Pretreatment standards for new sources.

**Subpart O—Sodium Sulfate Subcategory**

436.151 Specialized definitions.
436.153 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.155 Standards of performance for new sources.
436.156 Pretreatment standards for new sources.

**Subpart R—Phosphate Rock Subcategory**

436.183 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.184 [Reserved]
436.185 Standards of performance for new sources.

Sec.
436.186 Pretreatment standards for new sources.

**Subpart S—Frasch Sulfur Subcategory**

436.191 Specialized definitions.
436.193 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.195 Standards of performance for new sources.
436.196 Pretreatment standards for new sources.

**Subpart V—Bentonite Subcategory**

436.221 Specialized definitions.
436.223 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.225 Standards of performance for new sources.
436.226 Pretreatment standards for new sources.

**Subpart W—Magnesite Subcategory**

436.231 Specialized definitions.
436.233 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.235 Standards of performance for new sources.
436.236 Pretreatment standards for new sources.

**Subpart X—Diatomite Subcategory**

436.241 Specialized definitions.
436.243 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.245 Standards of performance for new sources.
436.246 Pretreatment standards for new sources.

**Subpart Y—Jade Subcategory**

436.251 Specialized definitions.
436.253 Effluent limitations guidelines representing the degree of effluent reduction attainable by the applicaton of the best available technology economically achievable.
436.255 Standards of performance for new sources.
436.256 Pretreatment standards for new sources.

**Subpart Z—Novaculite Subcategory**

436.261 Specialized definitions.
436.263 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.265 Standards of performance for new sources.
436.266 Pretreatment standards for new sources.

**Subpart AF—Tripoli Subcategory**

436.321 Specialized definitions.
436.323 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available

Sec.
436.323 technology economically achievable.
436.325 Standards of performance for new sources.
436.326 Pretreatment standards for new sources.

Subpart AL—Graphite Subcategory

436.381 Specialized definitions.
436.383 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
436.385 Standards of performance for new sources.
436.386 Pretreatment standards for new sources.

2. Subpart B is amended by adding §§ 436.23, 436.24, 436.25 and 436.26 as follows:

## Subpart B—Crushed Stone Subcategory

### § 436.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(1) There shall be no discharge of process generated waste water pollutants into navigable waters.

(2) Mine dewatering discharges shall not exceed the following limitations:

| *Effluent characteristic* | *Effluent limitations—maximum for any 1 day* |
|---|---|
| TSS | 30 mg/l. |
| pH | Within the range 6.0 to 9.0. |

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

### § 436.24 [Reserved]

### § 436.25 Standards of performance for new sources.

(a) Subject to the provisions of paragraphs (b) and (c) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(1) There shall be no discharge of process generated waste water pollutants into navigable waters.

(2) Mine dewatering discharges shall not exceed the following limitations:

| *Effluent characteristic* | *Effluent limitations—maximum for any 1 day* |
|---|---|
| TSS | 30 mg/l. |
| pH | Within the range 6.0 to 9.0. |

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorized such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

### § 436.26 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the crushed stone subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR §§ 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

3. Subpart C is amended by adding §§ 436.33, 436.34, 436.35 and 436.36 as follows:

## Subpart C—Construction Sand and Gravel Subcategory

### § 436.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(1) There shall be no discharge of process generated waste water pollutants into navigable waters.

(2) Mine dewatering discharges shall not exceed the following limitations:

| *Effluent characteristic* | *Effluent limitations—maximum for any 1 day* |
|---|---|
| TSS | 30 mg/l. |
| pH | Within the range 6.0 to 9.0. |

(3) In the event that waste streams from various sources are combined for treatment and discharge, the quantity and quality of each pollutant or pollutant property in the combined discharge shall not exceed the quantity and quality of each pollutant or pollutant property allowed had each stream been treated separately.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

### § 436.34 [Reserved]

### § 436.35 Standards of performance for new sources.

(a) Subject to the provisions of paragraphs (b) and (c) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(1) There shall be no discharge of process generated waste water pollutants into navigable waters.

(2) Mine dewatering discharges shall not exceed the following limitations:

| *Effluent characteristic* | *Effluent limitations—maximum for any 1 day* |
|---|---|
| TSS | 30 mg/l. |
| pH | Within the range 6.0 to 9.0. |

(3) In the event that waste streams from various sources are combined for treatment and discharge, the quantity and quality of each pollutant or pollutant property in the combined discharge shall not exceed the quantity and quality of each pollutant or pollutant property allowed had each stream been treated separately.

(b) Any overflow from facilities designed, constructed and operated to treat

to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

**§ 436.36 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the construction sand and gravel subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

4. Subpart D is amended by adding §§ 436.43, 436.44, 436.45 and 436.46 as follows:

## Subpart D—Industrial Sand Subcategory

**§ 436.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(1) Except for HF flotation facilities, there shall be no discharge of process generated waste water pollutants into navigable waters.

(2) Process generated waste water from plants employing HF flotation shall not exceed the following limitations:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

| Effluent characteristic | Effluent limitations: Maximum for any 1 day | Effluent limitations: Average of daily values for 30 consecutive days shall not exceed— |
|---|---|---|
| TSS | 0.046 | 0.023 |
| Total fluoride | 0.006 | 0.003 |
| pH | Within the range 6.0 to 9.0. | |

(3) Mine dewatering discharges shall not exceed the following limitations:

| *Effluent characteristic* | *Effluent limitations—maximum for any 1 day* |
|---|---|
| TSS | 30 mg/l. |
| pH | Within the range 6.0 to 9.0. |

(4) In the event that waste streams from various sources are combined for treatment and discharge, the quantity and quality of each pollutant or pollutant property in the combined discharge shall not exceed the quantity and quality of each pollutant or pollutant property allowed had each stream been treated separately.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

**§ 436.44 [Reserved]**

**§ 436.45 Standards of performance for new sources.**

(a) Subject to the provisions of paragraphs (b) and (c) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(1) Except for HF flotation facilities, there shall be no discharge of process generated waste water pollutants into navigable waters.

(2) Process generated waste water from plants employing HF flotation shall not exceed the following limitations:

| Effluent characteristic | Effluent limitations: Maximum for any one day | Effluent limitations: Average of daily values for 30 consecutive days shall not exceed— |
|---|---|---|
| [Metric units, kg/kkg of product; English units, lb/1,000 lb of product] | | |
| TSS | 0.046 | 0.023 |
| Total fluoride | 0.006 | 0.003 |
| pH | Within the range 6.0 to 9.0. | |

(3) Mine dewatering discharges shall not exceed the following limitations:

| *Effluent characteristic* | *Effluent limitations—maximum for any 1 day* |
|---|---|
| TSS | 30 mg/l. |
| pH | Within the range 6.0 to 9.0. |

(4) In the event that waste streams from various sources are combined for treatment and discharge, the quantity and quality of each pollutant or pollutant property in the combined discharge shall not exceed the quantity and quality of each pollutant or pollutant property allowed had each stream been treated separately.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

**§ 436.46 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the industrial sand subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

| Pollutant or pollutant property | Pretreatment standard: Maximum for any 1 day | Pretreatment standard: Average of daily values for 30 consecutive days shall not exceed— |
|---|---|---|
| TSS | No limitation | No limitation. |
| Total fluoride | 0.006 | 0.003. |

5. Subpart E is amended by adding paragraphs (b) and (c) to § 436.51, and adding §§ 436.53, 436.55 and 436.56 as follows:

## Subpart E—Gypsum Subcategory

### § 436.51 Specialized definitions.

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

### § 436.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: For operations not employing wet air emissions control scrubbers there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

### § 436.55 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: For operations not employing wet air emissions control scrubbers there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

### § 436.56 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the gypsum subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

6. Subpart F is amended by revising § 436.60, by adding paragraphs (b) and (c) to § 436.61, and by adding §§ 436.63, 436.65 and 436.66 as follows:

## Subpart F—Asphaltic Minerals Subcategory

### § 436.60 Applicability; description of the asphaltic minerals subcategory.

The provisions of this subpart are applicable to the processing of bituminous limestone, oil-impregnated diatomite and gilsonite not primarily used as an energy source.

### § 436.61 Specialized definitions.

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

### § 436.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

### § 436.65 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

### § 436.66 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the asphaltic minerals subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 28.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

7. Subpart G is amended by adding paragraphs (b) and (c) to § 436.71 and by adding §§ 436.73, 436.75 and 436.76 as follows:

## Subpart G—Asbestos and Wollastonite Subcategory

### § 436.71 Specialized definitions.

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available

in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

**§ 436.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technoloy economically achievable: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24-hour precipitation event shall not be subject to the limitations of this section.

**§ 436.75 Standards of performance for new sources.**

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.76 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the asbestos and wollastonite subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

## Subpart J—Barite Subcategory

8. Subpart J is amended by adding paragraphs (b) and (c) to § 436.101, and by adding §§ 436.103, 436.105 and 436.106 as follows:

**§ 436.101 Specialized definitions.**

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Deparment of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

**§ 436.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: For operations not employing wet processes or flotation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§436.105 Standards of performance for new sources.**

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: For operations not employing wet processes or flotation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§436.106 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the barite subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

9. Subpart K is amended by adding paragraphs (b) and (c) to § 436.111 and by adding §§ 436.113, 436.115 and 436.116 as follows:

## Subpart K—Fluorspar Subcategory

**§ 436.111 Specialized definitions.**

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

**§ 436.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: For operations not employing heavy media separation or flotation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.115 Standards of performance for new sources.**

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: For operations not employing heavy media separation or flotation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.116 Pretreatment standards for new sources**

The pretreatment standard under section 307(c) of the Act for a new source within the fluorspar subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged by a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

10. Subpart L is amended by adding §§ 436.123, 436.125 and 436.126 as follows:

## Subpart L—Salines From Brine Lakes Subcategory

**§ 436.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants into navigable waters.

(b) The limitations specified in subparagraph (a) of this section shall be applied on a net basis if the discharge is in compliance with 40 CFR 125.28: "the source of the applicant's water supply is the same body of water into which the discharge is made * * * "

**§ 436.125 Standards of performance for new sources.**

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants into navigable waters.

(b) The limitations specified in subparagraph (a) of this section shall be applied on a net basis if the discharge is in compliance with 40 CFR 125.28: "the source of the applicant's water supply is the same body of water into which the discharge is made * * * "

**§ 436.126 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the salines from brine lakes subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

11. Subpart M is amended by adding paragraph (b) to § 436.131 and by adding §§ 436.133, 436.135 and 436.136 as follows:

## Subpart M—Borax Subcategory

**§ 436.131 Specialized definitions.**

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

**§ 436.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.135 Standards of performance for new sources.**

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.136 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the borax subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this setcion, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

12. Subpart N is amended by adding paragraph (b) to § 436.141 and by adding §§ 436.143, 436.145 and 436.146 as follows:

### Subpart N—Potash Subcategory

**§ 436.141 Specialized definitions.**

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

**§ 436.143 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available: There shall be no discharge of process waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.145 Standards of performance for new sources**

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants into navigable waters.

(b Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.146 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the potash subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR §§ 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or Pollutant Property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

13. Subpart O is amended by adding Paragraph (b) § 436.151 and by adding §§ 436.153, 436.155 and 436.156 as follows:

### Subpart O—Sodium Sulfate Subcategory

**§ 436.151 Specialized definitions.**

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hours precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

**§ 436.153 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.155 Standards of performance for new sources.**

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.156 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the sodium sulfate subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or Pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

14. Subpart R is amended by adding §§ 436.183, 436.184, 436.185 and 436.186 as follows:

### Subpart R—Phosphate Rock Subcategory

**§ 436.183 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable.

(1) Process waste water generated from froth flotation operations, mine dewatering and surface runoff into waste water treatment systems shall not exceed the following limitations:

| Effluent characteristic | Effluent limitations | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| TSS, milligrams per liter. | 60 | 30 |
| pH | Within the range 6.0 9.0. | |

(2) For all other process generated waste water, such as pump seal water, air scrubber water and ore wash water, there shall be no discharge of pollutants into navigable waters.

(3) In the event that waste streams from various sources are combined for treatment and discharge, the quantity and quality of each pollutant or pollutant property in the combined discharge shall not exceed the quantity and quality of each pollutant or pollutant property allowed had each stream been treated separately.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

§ 436.184 [Reserved]

§ 436.185 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(1) Process waste water generated from froth flotation operations, mine dewatering and surface runoff into waste water treatment systems shall not exceed the following limitations:

| Effluent characteristic | Effluent limitations | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| TSS, milligrams per liter | 60 | 30 |
| pH | Within the range 6.0 to 9.0. | |

(2) For all other process generated waste water, such as pump seal water, air scrubber water and ore wash water, there shall be no discharge of pollutants into navigable waters.

(3) In the event that waste streams from various sources are combined for treatment and discharge, the quantity and quality of each pollutant or pollutant property in the combined discharge shall not exceed the quantity and quality of each pollutant or pollutant property allowed had each stream been treated separately.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

§ 436.186 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the phosphate rock subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR §§ 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

15. Subpart S is amended by adding paragraph (b) to § 436.191 and by adding §§ 436.193, 436.195 and 436.196 as follows:

Subpart S—Frasch Sulfur Subcategory

§ 436.191 Specialized definitions.

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 436.193 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: For operations mining anhydrite deposits, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

§436.195 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: For operations mining anhydrite deposits, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

§ 436.196 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the Frasch sulfur subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, and if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

16. Subpart V is amended by adding paragraphs (b) and (c) to § 436.221 and by adding §§ 436.223, 436.225 and 436.226 as follows:

Subpart V—Bentonite Subcategory

§ 436.221 Specialized definitions.

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

§ 436.223 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process generated waste water pollutants into navigable waters.

§ 436.225 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process generated waste water pollutants into navigable waters.

§ 436.226 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source

within the bentonite subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR §§ 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

17. Subpart W is amended by adding paragraphs (b) and (c) to § 436.231 and by adding §§ 436.233, 436.235 and 436.236 as follows:

**Subpart W—Magnesite Subcategory**

**§ 436.231 Specialized definitions.**

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

**§ 436.233 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting fron. a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.235 Standards of performance for new sources.**

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.236 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the magnesite subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

18. Subpart X is amended by adding paragraphs (b) and (c) to § 436.241 and by adding §§ 436.243, 436.245 and 436.246 as follows:

**Subpart X—Diatomite Subcategory**

**§ 436.241 Specialized definitions.**

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

**§ 436.243 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.245 Standards of performance for new sources.**

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this seciton, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§436.246 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the diatomite subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

19. Subpart Y is amended by adding paragraphs (b) and (c) to § 436.251 and by adding §§ 436.253, 436.255 and 436.256 as follows:

**Subpart Y—Jade Subcategory**

§ 436.251 Specialized definitions.

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

§ 436.253 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

§ 436.255 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

§436.256 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the jade subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR §§ 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

20. Subpart Z is amended by adding paragraphs (b) and (c) to § 436.261 and by adding §§ 436.263, 436.265 and 436.266 as follows:

Subpart Z—Novaculite Subcategory

§ 436.261 Specialized definitions.

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

§ 436.263 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

§ 436.265 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

§ 436.266 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the novaculite subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR §§ 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

22. Subpart AF is amended by adding paragraphs (b) and (c) to § 436.321 and by adding §§ 436.323, 436.325 and 436.326 as follows:

Subpart AF—Tripoli Subcategory

§ 436.321 Specialized definitions.

* * * * *

(b) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(c) The term "process generated waste water" shall mean any waste water resulting from the slurry transport of ore or intermediate product, air emissions control, or processing exclusive of mining.

§ 436.323 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: For operations not employing wet processes there shall be no discharge of process generated waste water pollutants into navigable waters.

**§ 436.325 Standards of performance for new sources.**

The following standards of performance estabish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: For operations not employing wet processes there shall be no discharge of process generated waste water pollutants into navigable waters.

**§ 436.326 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the tripoli subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant Property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |

22. Subpart AL is amended by adding §§ 436.381, 436.383, 436.385 and 436.386 as follows:

## Subpart AL—Graphite Subcategory

**436.381 Specialized definitions.**

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is pumped, drained or otherwise removed from the mine through the direct action of the mine operator.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land actively used for or resulting from the extraction of a mineral from natural deposits.

**§ 436.383 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of the following paragraphs of this section, process waste water and mine drainage shall not exceed the following limitations:

| Effluent characteristic | Effluent limitations: Maximum for any one day | Effluent limitations: Average of daily values for 30 consecutive days shall not exceed— |
|---|---|---|
| | | *mg/l* |
| TSS | 20 mg/l | 10 |
| Total Fe | 2 mg/l | 1 |
| pH | Within the range 6.0 to 9.0. | |

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour preciptation event shall not be subject to the limitations of this section.

**§ 436.385 Standards of performance for new sources.**

(a) Subject to the provisions of the following paragraphs of this section, process waste water and mine drainage shall not exceed the following limitations:

| Effluent characteristic | Effluent limitations: Maximum for any 1 day | Effluent limitations: Average of daily values for 30 consecutive days shall not exceed— |
|---|---|---|
| | | *mg/l* |
| TSS | 20 mg/l | 10 |
| Total Fe | 2 mg/l | 1 |
| pH | Within the range 6.0 to 9.0. | |

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

**§ 436.386 Pretreatment standards for new sources.**

The pretreatment standard under section 307(c) of the Act for a new source within the graphite subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

| *Pollutant or pollutant property* | *Pretreatment standard* |
|---|---|
| TSS | No limitation. |
| Iron, dissolved | 50 mg/l. |

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federal register

THURSDAY, JUNE 10, 1976




PART III:

# ENVIRONMENTAL PROTECTION AGENCY

## WATER PROGRAM

■

Proposed Toxic Pollutant Effluent Standards

## ENVIRONMENTAL PROTECTION AGENCY

[ 40 CFR Part 129 ]

[FRL 551-7]

### WATER PROGRAM

### Proposed Toxic Pollutant Effluent Standards

1. Notice is hereby given that the Environmental Protection Agency, pursuant to the authority contained in section 307 (a) of the Federal Water Pollution Control Act (the Act) as amended by the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500, 86 Stat. 816, (33 U.S.C. § 1251 et seq.)), proposes a new Part 129, setting forth proposed effluent standards for certain toxic pollutants included on a list of toxic pollutants previously published by the Agency pursuant to section 307(a)(1), 38 FR 24342 et seq. (September 7, 1973). This list and matters relating thereto are discussed below.

Section 307(a)(2) of the Act provides as follows:

> Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

The regulations proposed at this time establish effluent standards for manufacturers and formulators, both existing and new sources, for the toxic pollutants listed below:

1. Aldrin and dieldrin (These substances are treated together because of their close chemical relationship, and from time to time are referred to collectively as "aldrin/dieldrin").

2. DDT, DDD and DDE. (These substances are from time to time referred to collectively as "DDT" or "DDT and its metabolites").

3. Endrin.

4. Toxaphene.

The following, together with the materials and information hereinafter referred to and incorporated by reference, sets forth the basis and purpose of the effluent standards proposed in this Part.

#### Summary of Principal Features and Benefits of the Proposed Regulations

The regulations here proposed would establish effluent standards for all manufacturers and formulators of any of the following four toxic pollutants who discharge directly into the navigable waters: aldrin/dieldrin, DDT (DDE, DDD), endrin and toxaphene. Standards are established for both existing sources and new sources. Manufacturers and formulators who discharge into publicly owned treatment works, as defined in section 212 of the Act, are not covered by the standards herein proposed. However, the Agency expects to propose pretreatment standards for such indirect dischargers pursuant to the authority contained in section 307 of the Act in due course.

The four toxic pollutants covered in this proposed rulemaking are among the nine toxic pollutants listed for control by the Agency pursuant to section 307(a)(1) on September 7, 1973. They are among the most highly toxic pesticides known to man. All four have been clearly shown to result in lethal and sublethal toxic effects at low dose levels upon a wide range of fish, birds, mammals, and other wildlife, and have also demonstrated serious adverse health effects to man. Moreover, all four pollutants are highly mobile and persistent in the environment, and have demonstrated particular harm to aquatic organisms, in which they bioaccumulate greatly. Aldrin/dieldrin and DDT have previously been found by the Administrator to pose a cancer threat to man and accordingly most registered uses of them have been cancelled under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as discussed more fully below.

Although manufacture and formulation of these pesticides are presently somewhat limited, the potential for export sales as well as domestic uses makes it reasonable to expect that these substances will continue to be manufactured and formulated. This in turn poses the prospect of continued aqueous discharge and resulting environmental contamination, hence the need for controls under section 307(a) of the Act.

The proposed standards would require no aldrin/dieldrin or DDT (DDE, DDD) in any discharge from new or existing manufacturers or formulators of these substances. For endrin and toxaphene the proposed standards for existing manufacturers in terms of concentration and weight respectively are 1.5 $\mu$g/1 and 0.0003 kg/kkg of endrin produced, and 1.5 $\mu$g/1 and 0.00001 kg/kkg of toxaphene produced. A more stringent standard is proposed for new manufacturing sources. Both substances are prohibited in the discharges from formulators. Data available to the Agency indicate that these standards will provide the degree of protection for aquatic and other organisms and human health required by the Act, and are technologically achievable by industry without serious adverse economic or environmental impacts.

In the interest of complete coverage, the Agency has incorporated into its definition of pesticide manufacturers both those owners and operators who manufacture the pesticides and those owners or operators who use such pesticides as an input constituent in manufacturing another product. The Agency is unaware of any such subsequent manufacturing uses of these four pesticides by any owner or operator who directly discharges to a navigablye water (although one such manufacturing operation has been identified where the waste is introduced into a publicly owned treatment works). The Agency hereby solicits any information concerning such subsequent manufacturing use of these pesticides including information such as the identification of such owners or operators, the pesticide being so used, the final product, suitability of substitute non-pesticidal input materials, the characterization of wastewaters produced, and the availability and effectiveness of any known waste treatment technology.

#### I. Background

##### A. Prior Regulatory Action under Section 307(a)

On July 6, 1973, the Agency published in the Federal Register a proposed list of nine toxic pollutants pursuant to section 307(a)(1) of the Act, 38 FR 18044. The nine substances were: aldrin/dieldrin, benzidine, cadmium, cyanide, DDT (DDD, DDE), endrin, mercury, polychlorinated biphenyls, and toxaphene. Following receipt of public comment, the list was promulgated on September 7, 1973, together with a discussion of the Agency's selection criteria and a response to comments received on the proposed list, 38 FR 24342 et seq. The promulgated list consisted of the same nine substances previously proposed.

On December 27, 1973, the Agency published proposed toxic pollutant effluent standards for each of these nine substances, together with a summary of the factors considered in setting the standards, and a list of point source categories of dischargers proposed for coverage, 38 FR 35388 et seq. As recited in that notice of proposed rulemaking, the standards proposed therein were developed under severe time constraints imposed by court order in response to litigation commenced by the Natural Resources Defense Council, *NRDC* v. *Fri*, Civ. Action No. 849-73 (D.D.C. June 19, 1973, as modified), with the result that the Agency had not had time to develop data in certain areas. In accordance with section 307(a)(2) of the Act, a formal rulemaking hearing on the proposed standards was scheduled.

A prehearing conference was held on January 25, 1974, followed by a 30-day evidentiary hearing during April and May. Thirty-eight objecting parties participated, most of whom were industries or industry associations who would be affected by the proposed standards. During these hearings industry objectors introduced evidence which tended to show the following problems:

(1) Questions were raised as to whether the technology existed to monitor and detect the presence of some of the toxic pollutants in effluents at the low levels of concentration prescribed in the proposed standards with any degree of accuracy or reliability.

(2) The proposed standards were based in part upon certain hydrological considerations, including the flow rate and volume of rivers, and the propensity of a pollutant to disperse following discharge and become less concentrated in the area in the immediate vicinity of the discharge (substantially the equivalent of a "mixing zone"). It was argued that these assumptions were oversimplified, and evidence was presented indicating that attempts in the proposed standards to prescribe different discharge levels based upon flow rates and volumes of the receiving waters could result in unrealistic and unfair discrimination among dischargers, as well as major administrative problems. No evidence was submitted to indicate a reasonable alternative approach.

(3) The standards for each substance included a provision for allowable discharges based upon a conservative seven day "low flow" of the water body for a recurrence frequency of ten years. The low flow for an estuary was defined in § 129.01(c) of the proposed standards as the low flow of its tributaries. Evidence was submitted that many major estuaries have no tributaries, with the result that allowable discharge for industries located on them would be zero. Time constraints did not allow for the correction of this problem prior to the conclusion of the hearing.

(4) Many industries presented evidence to show that the technology available to them either could not achieve the proposed effluent limitation levels, or could not be installed within the one-year compliance time contained in the statute (cf. § 307(a)(6) and 307(d)). Other industries presented evidence to show that even where such control technology might be available, it could only be installed at very substantial expense. Further evidence was introduced to show that promulgation of the proposed standards would force large segments of major American industries to shut down. No evidence was available in the record by which to test the validity or strength of these claims.

In addition, there were some gaps in the Agency's data concerning the identification and extent of point source discharge of the substances. This in turn affected the Agency's ability to promulgate standards for the range of point sources proposed for coverage.

B. THE DECISION TO GATHER ADDITIONAL DATA AND REPROPOSE

Following the completion of these hearings, which had proceeded within the extremely short 6-month time frame following proposal of standards as prescribed in section 307(a)(2), the Agency concluded that because of the problems and data gaps in the hearing record referred to above it could not promulgate responsible and defensible standards based upon that record. This is not to say that the effluent standards originally proposed by EPA are indefensible, but rather to emphasize that at the time of the hearing on those proposed standards, the Agency did not have available to it the necessary data to fully substantiate the proposed standards or to respond effectively to the problems raised by the objectors. The status of the hearing record is critical, because under sections 307(a)(2) and (3) it is the sole basis for the promulgation of final standards, and the hearing record on the proposed toxic standards revealed that those standards could not be defended based on its contents.

At the same time the Agency was deeply concerned with the fact that it was then behind the time schedule which Congress prescribed for the setting of standards under section 307(a), and that to take the time to gather additional data would cause the Agency to fall further behind that timetable. The result was one apparently not anticipated by Congress at the time section 307(a) was drafted, namely, that the hearing record, though voluminous, did not contain sufficient evidence upon which defensible standards could be promulgated. The proposed standards could not be defended on the record, and no specific modification could be "justified based upon a preponderance of evidence adduced at the hearings" (section 307(a)(2)).

Faced with the choice between (a) promulgating standards on an insufficient record which were subject to almost certain challenge in court with the likely result of protracted litigation followed by a remand, or (b) taking the time to gather additional data to fill the gaps and make a fresh proposal, the Agency has elected the latter course as the more responsible. The Agency believes that the purpose of the Act is better served by proposing responsible and defensible standards, though late, than by rushing to meet a timetable which experience has shown to be too optimistic.

The permissibility of deferring regulatory action beyond the statutorily prescribed deadline was recognized by the U.S. Court of Appeals for the District of Columbia Circuit in allowing EPA to exceed certain statutory deadlines for issuing its effluent limitations guidelines and new source performance standards under the Act when resource constraints so dictated, *Natural Resources Defense Council* v. *Train*, 510 F. 2d 692 at 712–713 (D.C. Cir. 1975):

> The Act contemplates that the Agency's guidelines will be defensible if attacked by polluters seeking to avoid the effluent limitations. We perceive two types of constraints which might delay the formulation of adequate guidelines for some few categories of point sources beyond the deadline established by the Act. First, it is possible that budgetary commitments and manpower demandes required to complete the guidelines by December 31 are beyond the Agency's capacity or would unduly jeopardize the implementation of other essential programs. Second, EPA may be unable to conduct sufficient evaluation of available control technology to determine which is the best practicable or may confront problems in determining the components of particular industrial discharges. The courts cannot responsibly mandate flat guideline deadlines when the Administrator demonstrates that additional time is necessary to insure that the guidelines are rooted in an understanding of the relative merits of available control technologies. The delay required to give meaningful consideration to the technical intricacies of promising control mechanisms may well speed achievement of the goal of pollution abatement by obviating the need for time-consuming corrective measures at a later date.

Other judicial authority exists as well as for the Agency to deviate from the timetable in section 307(a) when such deviation will result in actions that will better serve the goals of the Act, e.g., *Commonwealth of Pennsylvania* v. *Lynn*, 501 F. 2d 848 (D.C. Cir. 1974). Moreover, the courts have not hesitated to reject and remand for further Agency consideration regulations promulgated on an inadequate record, e.g., *Portland Cement Association* v. *Ruckelshaus*, 488 F. 2d 375, 393 (D.C. Cir. 1973).

Since the 1974 hearing a number of measures have been taken by the Agency to remedy the problems elicited at that hearing and to provide the data base necessary for standards under section 307(a). The results of these efforts, insofar as they relate to the four substances for which standards are proposed at this time, are discussed more fully below. The principal areas of data gathering are briefly identified as follows:

First, the Agency has substantially expanded its data base with respect to the toxicity and environmental behavior and effects of the substances. This is in accord with the language of section 307(a) which requires the Administrator, both in the selection of substances and in the publication of standards, to consider "the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms. * * *"

The data include human health efforts to the extent available. Although human beings are not enumerated in section 307(a) among the organisms sought to be protected thereunder, other sections of the Act as well as the legislative history make it clear that Congress intended human health effects to be considered under section 307(a). Section 402(k), dealing with implementation of limitations and standards through the National Pollutant Discharge Elimination System (NPDES) permit program, accords special weight to "any standard imposed under section 307 for a toxic pollutant injurious to human health." The definition of "toxic pollutant" in section 502(13) describes a number of illustrative health effects of concern in human as well as aquatic organisms, and expresses concern with "ingestion through food chains" of toxic pollutants. Man as a consumer of fish and other aquatic organisms occupies a critical position in such food chains, and is thereby directly exposed to any toxic pollutant present in such organisms. He may also be exposed through ingestion of or contact with the water itself in which such pollutants are or may be present.

The legislative history of the Act further indicates that one of its fundamental objectives is protection of human health. The following language appears in the Report of the Senate Committee on Public Works discussing the definition of "toxic pollutant" in section 502(13) referred to above:

A definition of toxic substances is provided to assist the Administrator in implementing his authority under Section 307 to regulate toxic discharges. The definition provides a benchmark for evaluating those pollutants which in certain concentrations would have a particularly adverse impact on humans as well as other forms of life. S. Rept. No. 92-414, 92nd Cong., 1st Sess., October 28, 1971, p. 77, reprinted in "A Legislative History of the Water Pollution Control Act Amendments of 1972" (hereinafter cited as "Legis. Hist.") at p. 1495.

The Report then proceeds to describe some of the features of a toxic pollutant which the Committee expected the Administrator to consider in the exercise of his authority under section 307 including, among others, "the seriousness and irreversibility of any effects on man or the environment that might occur" and "the possibility for incorporation into biological organisms and man in concentrations which the latest scientific knowledge suggests will produce effects on man and organisms." S. Rept., 92-414 at p. 78; Legis. Hist. at p. 1496. The public health concern is also reflected in the Report at p. 3-4, Legis. Hist. at p. 1421-2.

Second, the Agency has given further attention to measuring and monitoring technology capability in considering new standards. Third, it has reconsidered its hydrological assumptions and has eliminated from the operative language of the standards proposed at this time the use of "low flow" rates and "mixing zones." Fourth, the Agency has gathered additional data and has reassessed its previously accumulated data with respect to discharge of particular pollutants by particular industrial point source categories.

### C. CONSIDERATION OF TECHNOLOGICAL AND ECONOMIC FACTORS

In addition, though not specifically required to do so under the language of section 307(a), the Agency has gathered data on available control technologies as well as the economic impact of the imposition of such controls. Section 307(a) is, by its terms, concerned primarily with protection of environmental health, including that of aquatic organisms, humans, and others along the food chain (c.f. Section 502(13)). Thus the Agency could set standards on the authority of this section without regard to technology constraints or economic impact. However, the statute does not preclude consideration of such factors, and in light of the claims raised by industry objectors at the previous hearings the Agency has concluded that the interests of responsible rulemaking are best served by giving at least some consideration to technological factors and the likely impact, if any, of the proposed regulations on the national economy. This approach has received judicial approval in other contexts. *Buckeye Power* v. *EPA*, 481 F. 2d 162 (6th Cir. 1973); *Environmental Defense Fund Inc.* v. *Ruckelshaus*, 439 F. 2d 584, 594 (D.C. Cir. 1971); *International Harvester* v. *Ruckelshaus*, 478 F. 2d 615, 637, 641 (D.C. Cir. 1973); c.f. also *Natural Resources Defense Council* v. *EPA*, 489 F. 2d 390, 411-412 (5th Cir. 1972) ("considerations of economic cost or technological feasibility are *always* to be subordinate to considerations of public health.") (Emphasis in original).

Consideration of technological factors, and by implication economic impact, appears in the legislative history of the Act with reference to section 307(a)(5), which requires the Administrator to "designate the category or categories of sources to which the effluent standard (or prohibition) shall apply." Congress clearly expected different levels of standards for different categories of industrial sources. The Senate Report states concerning section 307(a)(5):

* * * The Committee has provided the Administrator with authority to differentiate among categories of sources in establishing requirements under this Section.

This authority, for example, would give the Administrator the latitude to treat a plant that processes cadmium ore differently than he might treat a plant in which cadmium appears as a trace impurity. A similar ability to differentiate exists in the Clean Air Act. S. Rept., No. 92-414, 92nd Cong. 1st Sess. at 61 (1971); Legis. Hist. p. 1479.

The House Report states.

The Administrator is directed under this Section to establish a list of substances which are recognized to be toxic when released into the environment. However, the standards which are to be established for that list may be varied pursuant to Section 307(a)(5) according to the category or categories of source to which the effluent standards shall apply. H. Rept., No. 92-911, 92nd Cong., 2nd Sess. at 112 (1972), Legis. Hist. 799.

Section 307(a)(5), as explained in the Committee reports, authorizes EPA to establish toxic standards at different levels for different categories of point sources. The only basis for establishing different levels for different point source categories would appear to be technological or economic differences in the various control techniques involved. If the standards were to be based solely on health or environmental effects there would be no basis for distinguishing among point source categories.

A further indication that the Administrator is allowed to give some considerations to such factors can be inferred from the language of sections 307(a)(1) and (2). These sections require that, both in publishing a list of toxic pollutants and in developing effluent standards for them, the Administrator shall take into account "the importance of the affected organisms." The statute does not say in relation to what the importance is to be considered. However, if the importance of the affected organisms is to be given a meaningful role in determining the stringency of the standards, it is a reasonable inference that Congress had in mind a consideration of their importance in relation to other important social and economic values.

Based upon the foregoing considerations, the Agency has concluded that it is authorized to give at least some consideration to the economic impact, including the availability of control technology, in setting standards under section 307(a), even though such factors must always be given less weight than the environmental and public health factors for which the standards must, under section 307(a)(4), provide "an ample margin of safety."

Apart from the Act itself, economic impact must be considered by the Agency under Executive Order No. 11821, 39 FR 41501 (signed November 27, 1974). This order and the implementation guidelines issued by the Office of Management and Budget, OMB Circular A-107, require federal agencies, including EPA, to assess the economic and inflation impact of proposed regulations and standards and make a determination as to whether or not the proposal is likely to have a significant impact on inflation. If it is concluded that such impact is likely, an Inflation Impact Statement (IIS) must be prepared by the Agency which evaluates, among other things, the probable effects of the regulations on costs, productivity, competition, and supplies of goods and services. In compliance with this Executive Order, it is the Agency's practice to make sufficient examination and assessment of the likely economic impact of its regulations to determine whether or not an IIS is required, and to prepare such a statement in all cases where it is required.

Executive Order 11821 requires that major proposals for legislation and promulgation of regulations and rules by Agencies of the executive branch be accompanied by a statement certifying that the inflationary impact of the proposals has been evaluated. The Administrator has directed that all regulatory actions that are likely to result in (1) annualized costs of $100 million, (2) additional costs of production more than 5% of the selling price, or (3) an energy consumption increase equivalent to 25,000 barrels of oil per day will require a certified inflationary impact statement. The analysis indicates that the total investment required to meet these regulations is $0.8-1.1 million with an annualized cost of $0.5-0.7 million. The costs as a percent of selling price are no more than 2.3%. Although the criteria for performing a certified inflationary impact statement have not been met, the Agency has assessed the potential economic impact of these regulations and concludes that there will be no significant adverse impact on production, prices, or the consumers of these products. More detailed information regarding economic impact is found in the discussion of each of the four pesticides.

### D. THE NEED TO PROCEED WITH A LIMITED NUMBER OF SUBSTANCES AT A TIME

Experience with the 1974 hearings demonstrated that it is neither practical nor feasible to try to conduct a formal rulemaking hearing on as many as nine substances involving numerous different, unrelated industries. The very tight time

constraints imposed by section 307(a) allow only six months between proposal and final promulgation. To proceed with numerous substances poses unwarranted and intolerable burdens on the objecting parties, the Agency, and the presiding officer, with the likely result that the quality of the rulemaking will suffer.

For this reason, and in light of past experience, the Agency has decided to propose standards for a more limited number of substances at a time, in the hope that a hearing of limited scope will result in promulgation of responsible, well-developed standards within the six month time frame presently required by section 307(a). Thus the present proposal sets forth standards for four substances, and further proposals are expected in the future for additional substances.

It is against this background, and in this context, that the standards hereinafter set forth have been developed and are now proposed.

## II. The Proposed Standards

In developing the standards proposed herein the Administrator has given careful consideration to each of the factors enumerated in section 307(a)(2). These factors include "the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms." In light of the Act's manifest concern for public health as discussed above, the Administrator has also considered available data concerning human health effects attributable to the substances. The data considered by the Administrator relating to these factors of toxicity and environmental fate and effects are set forth for each of the four substances in a "Criteria Document." These four criteria documents, together with a general introduction thereto, are hereby incorporated by reference as a part of the statement of basis and purpose for the standards hereinafter proposed.

In addition, for the reasons stated in the preceding Section, the Administrator has considered the availability of various methods of control and related technology by which discharge of each of the substances might be eliminated or reduced. In order to obtain relevant data for this function, EPA engaged the services of an outside contractor, Midwest Research Institute ("MRI") of Kansas City, Missouri, who are experts on pesticide manufacturing and formulating wastewater treatment technology. Reports have been prepared and submitted by MRI concerning control technologies which actually are in use or which are or may be available to manufacturers and formulators of each of the four chemical pesticides for which standards are hereinafter proposed. Those reports are hereby incorporated by reference as part of the statement of basis and purpose of this proposed rulemaking.

The Administrator has also considered, for the reasons stated in the preceding section, the impact on the nation's economy of the setting of standards as hereinafter proposed. In order to assist the Agency in making this assessment, the Agency retained as outside consultants the firm of Arthur D. Little, Inc. of Cambridge, Massachusetts. Arthur D. Little, Inc. has submitted to the Agency a report for the four substances for which standards are hereinafter proposed. This report is hereby incorporated by reference as part of the statement of basis and purpose for those proposed standards.

Copies of each of the aforesaid criteria documents and reports are available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460, and in similar Public Information Reference Units in each of the ten EPA Regional Offices, during normal business hours. In addition, copies of the reports may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia.

The approach utilized in arriving at the standards for each substance is as follows. First, because the most important element in setting the standards is the toxicity considerations enumerated in section 307(a)(2), the starting point is the development of the criteria documents, which set forth extensive data with respect to the environmental effects and behavior of each pollutant. The purpose of each criteria document is to arrive at an ambient level of the subject pollutant, based upon the data, which will provide an ample margin of safety for all important aquatic organisms and others up the food chain, including man, who may become exposed to it. This ambient water criterion is expressed as a concentration of the pollutant in the water, normally in micrograms per liter (ug/1), or the equivalent measurement of parts per billion (ppb).

The toxicity data were derived from laboratory studies as well as field observations on the effects and behavior of each of the substances. These studies have been conducted on a variety of organisms including invertebrate, vertebrate, and mammalian test species, and are well documented in the scientific literature. In addition, recent data developed by the Agency's Office of Research and Development through its various laboratories, and other non-Agency sources, have been considered. These studies provided extensive acute and chronic toxicity data based primarily on feeding experiments for a wide range of aquatic organisms and consumers of aquatic organisms.

Studies documenting bioaccumulation in the food chain organisms and bioconcentration by organisms directly from the water provided an important additional component data base upon which criteria were derived. Appropriate human toxicity data and mammalian carcinogenesis studies, where available, were also considered, as were data on persistence and degradability.

Data on toxic effects of pollutants are not available for all species that may be exposed to toxic pollutants in the complex ecosystem. There is a vast number of species throughout the entire ecosystem, and it would be impractical to try to gather test data on every one, or even most of them. Because such data are not available on all species, the range of sensitivity of a smaller number of tested species is used to provide a measure of the range of sensitivity of all species. The Agency's criteria for these four pesticides are based upon a wide range of toxicity data for a phylogenetic cross section of organisms as well as species representative of a wide geographic distribution.

Section 307(a) requires consideration of the importance of organisms likely to be affected. Ecological importance of an organism is dependent on the role the organism plays within the ecosystem and upon its relationship to the food chain within the aquatic community and to consumers of aquatic life, including man. Thus, toxicity data for the carnivores at the top of the food chain in a given ecosystem, as well as economically important species such as trout, salmon, menhaden and shrimp are properly considered in the development of a protective criterion level. Toxicity data for organisms such as the stonefly and *Daphnia* are also important since these organisms are a food base for higher consumers and are representative of invertebrate species found in most waters of the United States.

On the basis of the foregoing data, a concentration level is selected which, it is believed, will provide an ample margin of safety for all important organisms likely to be affected by it, assuming a continued, or chronic, presence of the pollutant at that level in the water.

After thus arriving at an ambient water criterion, or prohibition where justified, the Agency examined feasible control technology to ascertain what concentration levels industrial dischargers might be able to achieve in their effluents. The ambient water criterion for each of these four pesticides was found to be extremely low, for example, 0.004 $\mu$g/1 for endrin and 0.005 $\mu$g/1 for toxaphene. Apart from a prohibition on discharge, there does not appear to be any wastewater treatment technology available to achieve these levels. Indeed, as discussed more fully below, the best that laboratory-demonstrated technology appears to be able to achieve within the tight one-year compliance time required under section 307(a) is in the vicinity of 1 to 1.5 $\mu$g/1. This exceeds the ambient water criterion by a factor of several hundred.

Discharge of relatively modest amounts of a pollutant into the water at 200 to 300 times the ambient water criterion may be allowed, however, without necessarily failing to provide an ample margin of safety for affected organisms. First, the actual discharge concentration does not normally remain the ambient concentration. In fact, for the typical discharge situation, the effluent disperses

following discharge and becomes greatly diluted. The area of dilution is often referred to as a "mixing zone," and will vary in size and shape from one body of water to the next. The result of this phenomenon is that the pollutant concentration typically becomes greatly diluted in the receiving water and may not even be detectable. Concededly, there may in some instances, be adverse effects on some organisms in the immediate vicinity of the outfall. However, for chronic effects to be observed, the exposure time would have to be quite lengthy—perhaps a lifetime. Even acute toxic effects, which normally occur at much higher dosage levels than chronic effects, are generally recorded based upon a 96-hour exposure.

Recognizing these realities, the Agency has concluded that with respect to the pollutants for which standards are proposed at this time, adequate protection under section 307(a) can be achieved by requiring existing dischargers to do the very best that is possible within the bounds of feasibility, and that standards should be set which take into account methods which achieve or most nearly approach the ambient water criterion. For new sources, if further technology advances can be reasonably expected, a more stringent limitation may be set to take such expected advances into account. Where the criteria data warrant prohibition on discharge of the pollutant and either (a) there are no known dischargers in the category covered; or (b) technology can feasibly achieve a prohibition, then the standard should require a prohibition.

To minimize total environmental burden, a limitation on discharge based upon weight per unit of production expressed in terms of kilograms per thousand kilograms is also included. The weight loading is tied to production levels to provide even-handed treatment to small and large producers.

Translating a safe water quality criterion number to an end-of-the-pipe standard is at best an imprecise calculation. The dispersion and dilution factors discussed above are expected to insure that, in most cases, an ample margin of safety is provided. The Agency recognizes, however, that there may be a few cases where, because of local receiving water conditions, notably with respect to hydrology, sufficient dispersion and dilution may not take place. To deal with such cases, the proposed standards include provision in the nature of a more stringent variance allowing the cognizant regulating authority (normally the issuer of an NPDES permit applicable to the discharger) to impose such more stringent effluent limitations as may be required in order to achieve the ambient water criterion, at least beyond the boundaries of any applicable mixing zone. This mechanism assures reasonable compliance with the statutory baseline of an "ample margin of safety." It is possible that an exercise of this variance provision could result in plant closure, although none is expected at this time. In any case, by allowing some consideration for technology, even though considerations of ecological and health effects are predominant, this approach makes it reasonably probable that if there are to be any shutdowns, they will occur only after a site-specific examination, and only because of a failure to meet the minimum requirements of section 307(a).

Setting an "end-of-the-pipe" effluent standard at a level which is substantially less stringent than the chronic criterion recognizes the inherent safety factors built into the latter number, which is derived from direct, sustained exposure of the more sensitive species with no dilution or dispersion allowance. Clearing, as one backs away from that very stringent number the amplitude of the margin of safety is decreased. Yet the statutory "ample margin" concept is an elastic one which, like the importance of the organism, allows for considerable exercise of judgment by the Administrator in setting the standards. In any case where a discharge is allowed, on the spectrum ranging from certain safety (a prohibition) to that uncertain point where harmful effects are caused and safety ends, a logical break point is struck where the very best that control technology can do is required. Setting a standard at this point, coupled with the "tightening" variance, achieves the purpose of the Act without inflicting unreasonable and unjustifiable economic and social costs.

The proposed regulations, including the standards for each of the four substances which are the subject of this rulemaking, are discussed in the following paragraphs.

### General Provisions

Sections 129.1 through 129.8 of the proposed regulations contain general provisions including such matters as scope, definitions, and compliance. Sections 129.100 through 129.103 then set forth the specific standards applicable to each of the toxic pollutants.

With respect to general provisions, § 129.1 entitled "Scope and Purpose" describes generally the application of the standards. Subsection (a) establishes the applicability of the standards and prohibition to all owners and operators of facilities within the specified industrial categories which discharge process wastes or process-related wastewater. A special subsection entitled "Applicability" is included in the standards proposed for each of the four pollutants covered at this time (see, for example, § 129.100 (b)(1)) which specifies that the coverage includes all process wastes and all discharges (including stormwater runoff) from the immediate manufacturing, loading, storage, incineration, and related areas. The standards do not apply to runoff from areas contaminated solely by fallout from air emissions. Furthermore, the standards do not apply to non-process discharges from locations outside these areas. However, these latter discharges must nevertheless be covered by conventional NPDES permits if they are from lands or facilities used for industrial or commercial activities, and if they convey stormwater runoff contaminated by contact with aggregations of wastes, raw materials, or pollutant-contaminated soil (41 FR 11303 (1976)). Effluent limitations for such discharges will be established by permit issuing authorities on a case-by-case basis.

Subsection (b) provides that the standards may be incorporated in any NPDES permit, modification or renewal thereof. Subsection (c) provides for the application of the provisions of 40 CFR Part 124 and Part 125 with respect to permits.

Section 129.2 defines the terms used throughout this Part. As noted in the Section itself all terms not defined in the Section will have the meanings given them in either the Act or 40 CFR Part 124, or 125 as applicable. Most of the terms are so defined except the following:

(1) Subsection (c) defines "effluent standard" to be equivalent to the term "effluent limitation", as defined in section 502(11) of the Act, with the exception that it does not include a schedule of compliance. This definition is adopted for purposes of these standards since the term "effluent standard" is not defined in the Act and further because a permit may in fact contain a limitation on effluents which may vary from the specific number provided in the national standard, and discharge in compliance with such a permit should not be treated as a violation within the meaning of section 307(d) of the Act.

(2) Subsection (d) defines "prohibited" as the absence in a discharge of a specified pollutant in any amount detectable by any method.

(3) Subsection (g) defines an "ambient water criterion" of a substance in the receiving water as that level at which no adverse effects are observed (or expected, based upon test data) with respect to an organism over at least a 96-hour period, and normally extending through one reproductive life cycle, or which is determined on the basis of information relevant to human exposure. This definition is intended to provide a ceiling of safety in the receiving water for aquatic life and other organisms likely to be affected by continued discharges of the pollutant in question.

(4) The terms "new source," "existing source," "source," "owner or operator," and "construction," defined in subsections (h), (i), (j), (k) and (l) respectively, are adapted from section 306(a) of the Act.

(5) Subsection (n) defines "process wastes" to mean any of the designated toxic pollutants whether in wastewater or otherwise present which is inherent to or unavoidably resulting from any manufacturing process and is subject to discharge into the navigable waters.

(6) The terms "air emissions," "fugitive dust, mist or vapor," and "stack" in subsections (o), (p) and (q), respectively, are defined so that a distinction can be made between a pollutant which results from a spill or poor "housekeeping" practice and that same pollutant which results from fallout from air emissions. For the limited areas specified in the standards, runoff containing the toxic pollutant caused by spills and "housekeeping" are subject to the standards. Runoff from excluded areas is not covered.

Section 129.4 entitled "Toxic Pollutants" lists the pollutants that will be regulated under this Section of the Act, and provides the chemical definition for each. As noted in this proposed rulemaking, only four pesticides are included.

These are aldrin/dieldrin, DDT (DDD and DDE), endrin, and toxaphene. In each subsequent proposed rulemaking this section will be amended to include additional toxic pollutants and their chemical definitions.

Section 129.5 pertains to compliance and provides for implementation through the NPDES permit program. Sections 402(a)(1) and 402(b)(1)(A) require that any NPDES permit insure compliance with any applicable requirement under section 307(a). Thus, while enforcement for violation of a 307(a) standard may be effected directly through section 307(d), it is also contemplated that the standard be actually incorporated and implemented in an NPDES permit issued to any point source discharger to whom a 307(a) standard applies. Consequently present regulations require permits to include applicable 307(a) standards. 40 CFR 124.45(g), 125.22(a)(6).

Subsection (a)(1) of § 129.5 provides that any owner or operator subject to these standards notify the cognizant NPDES permit issuing authority within 60 days of the date of promulgation of any applicable toxic pollutant effluent standard. Such notification should include identification of the point source and of the applicability of the standard to it. The permitting authority then has the option of issuing a permit or permit modification to the source which incorporates the 307(a) standard together with applicable monitoring and reporting requirements, or of notifying the owner or operator of the source by letter as to these requirements without actually issuing a permit or modification at that time. Subsection (a)(2) provides that any owner or operator who does not have a discharge at the time of promulgation of an applicable standard and who subsequently commences or intends to commence such a discharge must notify the permit issuing authority at least 60 days prior to such discharge.

Subsection (b) provides that the process of incorporating a 307(a) standard into an NPDES permit is to follow the procedures established in the applicable provisions of 40 CFR, Parts 124 and 125, which pertain to NPDES permits. Although public hearings and adjudicatory proceedings might be held pursuant to those Sections in connection with any permit or application, or variance proceeding, the scope of any such proceedings is limited by subsection (g) discussed below.

Subsection (c) provides that any permit containing a toxic pollutant effluent standard is subject to revision following the completion of any proceeding revising the underlying toxic pollutant effluent standard regardless of the duration specified in a permit. This is to indicate that even though a permit may be issued for a 5-year period, if the underlying standard is changed the permit automatically becomes subject to that change in the toxic pollutant effluent standard at that time. This is pursuant to section 402(k) of the Act, which excepts "any standard imposed under section 307 for a toxic pollutant injurious to human health" from the general rule that compliance with a permit, once issued, will be deemed compliance with sections 301, 302, 306, 307, and 403 for the duration of the permit. All 307(a) toxic pollutants are regarded as injurious to human health unless the particular standard for such pollutant specifies to the contrary. This provision is also consistent with section 307(a)(3) of the Act, which requires that the standards be reviewed and revised where appropriate every three years.

Subsection (d)(1) establishes compliance monitoring and reporting requirements. It provides the Regional Administrator (or State Director, if appropriate) the authority to impose monitoring, sampling, recording, and reporting requirements upon any dischargers subject to § 307(a) standards or prohibitions. It is intended that this authority will be used for compliance monitoring and other data gathering purposes, particularly with regard to dischargers whose NPDES permits have not been modified or reissued to reflect § 307(a) standards or prohibitions. Section 308 of the Act provides EPA (and the States) the legal authority to impose such monitoring and reporting requirements upon dischargers.

Subsection (d)(2) provides that in addition to monitoring and reporting requirements specified in NPDES permits pursuant to subsection (d)(1), the owner or operator of a discharge subject to a section 307(a) standard or prohibition shall report annually on the compliance of such discharge. This subsection specifies the basic content of the report.

Subsection (e) provides that these regulations do not prohibit either a Regional Administrator (paragraph (1)) or a State Director (paragraph (2)), as appropriate, from making permit conditions more stringent pursuant to § 301(b)(1)(C) of the Act, so as to meet State water quality standards or other requirements of law.

Subsection (f) provides that any owner or operator of a facility who discharges partially to a publicly owned treatment works and partially directly to navigable waters must restrict his total emission. The total amount discharged must conform to the less restrictive of either a direct discharge standard or a pretreatment standard, but the proportional amount discharged to the navigable waters must not exceed the level specified in these standards.

Subsection (g) provides that in any permit hearing or other administrative proceeding relating to the implementation or enforcement of these standards, or any modification thereof, or in any judicial proceeding other than a petition for review of those standards pursuant to section 509(b)(1)(C) of the Act, the parties may not contest the validity of any national standards established in this Part, or the ambient water criterion established herein for any toxic pollutant. The proper forum for challenging any proposed standard and its underlying data base including, for example, data relating to toxicity, persistence, bioaccumulation and related matters is the rulemaking hearing. Similarly the exclusive procedure established by Congress for judicial review of the standard is a petition to the United States Court of Appeals pursuant to section 509(b)(1)(C) of the Act. Sound administration requires that the standards, including the ambient water criteria which are established as part of the standards, not be "relitigated" in every permit proceeding or enforcement action. This approach is consistent with that followed by the Agency with respect to its effluent limitations guidelines established pursuant to section 301 and 304 of the Act, the contents of which may be challenged solely under section 509(b) of the Act and not in any subsequent permit or enforcement proceedings. Cf. Section 509(b)(2) of the Act and Decision No. 4 of the General Counsel on Matters of Law Pursuant to 40 CFR 125.36(m) issued March 6, 1975.

Section 129.6 provides for an allowance for the presence of toxic pollutants in intake waters. Under this section, to the extent that the inability of a discharger to meet an effluent standard for a particular toxic pollutant results from presence of that same pollutant in his intake waters, a credit should be provided, so that the standard shall be applied to that extent on a "net" basis. The credit is allowed only when the source of the intake waters is the same as that to which the discharge is made. This incorporates the principles established in 40 CFR 125.28.

Section 129.7 establishes a mechanism for imposing an effluent limitation on a particular discharger more stringent than that prescribed in the national standard where, because of unusual site-specific receiving water conditions, a more stringent limitation should be imposed in order to provide the measure of safety required by the Act. This is, in effect, a "tightening" variance clause. Section 307(a) neither expressly permits nor forbids the use of such a variance clause. The purpose for which this clause is proposed is to deal with such situations as could occur where there are multiple discharges of the toxic pollutant into a body of water, poor dilution, or insufficient dispersion. Such conditions may result in a concentration in the receiving water which is greater than the ambient water criterion determined by the Agency in establishing the national effluent standard in these proceedings. These conditions may result in, or may cause or contribute to, significant adverse effects to aquatic or other organisms usually or potentially present, or to human health. Such situations would call for a more stringent effluent limitation for discharges to that body of water than that established in the national standard in order to provide the "ample margin of safety" specified in section 307(a)(4) of the Act.

It is neither practical nor possible to set a national standard which is precisely tuned to the hydrology, hydrography, and water quality conditions of the receiving waters of each discharger who might be affected by these regulations.

Because the national standard for some substances may be set at a number which is several orders of magnitude more relaxed than the ambient water criterion, as in the proposed standards for endrin and toxaphene manufacturers, the proposed variance would, in effect, give the regulations some degree of flexibility. The overall result is to allow a discharge in those cases and at those levels where technological and economic considerations indicate that this is justified, and where the safety requirements of section 307(a) are not violated, and to provide for a tightening of the limitations where site-specific conditions require it in order to provide the necessary environmental protection.

Ample judicial authority exists for such a variance clause, even absent express statutory authority, in order to achieve what is frequently characterized as the salutory objective of administrative flexibility and the avoidance of harsh or unjust results. See, e.g., *Train* v. *Natural Resources Defense Council, Inc.*, 95 S. Ct. 1470 and cases discussed at 1478–1479 (1975); *Gulf Oil Co.* v. *Hickel*, 435 F. 2d 440, 447 (D.C. Cir. 1470); *Portland Cement Association* v. *Ruckelshaus*, 486 F.2d 375, 398–399 (D.C. Cir. 1973); *WAIT Radio* v. *FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *National Petroleum Refiners Association* v. *FTC*, 482 F. 2d 672 (D.C. Cir. 1973); *United States* v. *Allegheny Ludlum Steel Corp.*, 406 U.S. 742, 755 (1972).

Thus in *Portland Cement Association* v. *Ruckelshaus, supra*, in discussing a proposed variance procedure in the Agency's Clean Air Act new source performance standards, the Court stated that such a provision:

> (I)n some sense * * * imparts a construction of "reasonableness" to the standards as a whole and adopts a more flexible system of regulation than can be had by a system devoid of "give". As we noted in *International Harvester, supra*, a regulatory system which allows flexibility, and a lessening of firm proscriptions in a proper case can lend strength to the system as a whole. The limited safety valve permits a more vigorous adherence to an effective regulation. 478 F.2d at 641.

For these reasons, in its regulations issued pursuant to sections 301 and 304 prescribing effluent limitations and guidelines based upon "the best practicable control technology currently available," EPA has provided for a permit variance from national effluent guidelines in cases where the site-specific factors are "fundamentally different" from those upon which the national regulation was based, see, e.g., 40 CFR 430.32, even though there is no express authority in the statute for such a provision. Use of this variance clause was recently upheld by the Third Circuit in its review of the Agency's effluent limitations and guidelines for the steelmaking phase of the iron and steel industry. *American Iron and Steel Institute et al.* v. *EPA* 526 F.2d 1027, 1049, 1061 (3rd Cir. 1975), (remanded on other grounds). See also *E. I. du Pont de Nemours & Co. et al.* v. *Train*, — F.2d —, 8 E.R.C. 1718, 1722 (4th Cir. 1976).

The variance clause herein proposed is expected to be used only in exceptional circumstances. If the Regional Administrator or State Director has evidence that a discharge at the level required by the standard will cause ambient receiving water quality, even outside a reasonable mixing zone, to exceed the ambient water criterion, and that this is resulting in or may cause or contribute to, significant adverse effects to aquatic or other organisms usually or potentially present, or to human health, he may propose a more stringent limitation. In subsequent proceedings under the existing NPDES rules of procedure (40 CFR Part 124 or 125), the proponent of such variance has the burden of showing it is justified. Evidence thereof would normally include results of sampling and analysis of receiving water in various locations both near and remote from the proposed outfall, and projections as to the effect thereon of the proposed discharge, both at the level allowed by the national standard and at the more stringent level proposed by the regulating authority, taking into consideration dilution, dispersion, and other relevant hydrologic and hydrographic considerations. Any modification of the national standard must provide "an ample margin of safety" as required by the Act, which in turn is reflected in the ambient water criterion. Review by the Administrator under subsection (c) will be used to assure this objective as well as to maintain consistent application of the variance clause throughout the nation. The Agency believes that this procedure will best reconcile the statutory requirement of a uniform national standard with the need for fairness and some degree of site-specific flexibility.

Section 129.8 establishes that the effluent standards shall be complied with not later than one year after promulgation, unless an earlier compliance date is provided in a particular standard for a particular pollutant. This provision is required by section 307(a)(6) of the Act. It is also provided in light of that Section that no permit proceedings (including any variance proceeding) shall operate to delay the effective date herein established. The need for compliance on or before the effective date is required by section 307(d) of the Act, which provides that:

> After the effective date of any effluent standard or prohibition or pretreatment standard it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition or pretreatment standard.

The phrase "effective date" as used in that section was apparently intended by Congress to mean the date for compliance and is so construed in these proposed regulations.

These general regulatory provisions are not "Standards" within the meaning of section 307(a) and therefore need not be subject to formal rulemaking hearings. The Agency is, however, proposing them together with the proposed standards in a single proceeding in order to allow public comment and participation on the proposed standards in the context of the general provisions in the belief that this will result in a more informed rulemaking proceeding. However in the event that future amendment of the general provisions becomes appropriate, this may be done through the "informal" rulemaking procedure under 5 U.S.C. 553.

### The Standards

Sections 129.100 through 129.103 contain the effluent standards themselves. The standards here proposed are to cover manufacturers of each of the pesticides as well as formulators of any products containing such pesticides. Manufacturers are defined to include anyone who produces, prepares or processes the substance or uses it in the production of another synthetic organic substance. With respect to the later category, the Agency is unaware of any existing direct discharger, though at least one discharger to a publicly owned treatment works exists. It is believed that this provides coverage for all known point sources of discharge or potential discharge. Coverage is provided for both existing and new sources, the latter being defined as any source on which construction is begun following the date of this proposed rulemaking, patterned after the definition contained in section 306 of the Act.

A separate section is established for each toxic pollutant. Within that section there are established standards for manufacturers and formulators, for new and existing sources. Each section also describes the applicability of the standard and acceptable analytical methods. In addition, provision is made for determination of weights and concentrations. The specialized definition of "manufacturer" for each pesticide is so worded as to make clear the Agency's intent that an individual engaged solely in agriculture or silviculture and who, as such, may be an end user of products containing one or more of these pesticides is not a "source" covered by these proposed standards.

In cases where a discharge is allowed, the standard will be specified as an average concentration limit calculated using the results from the working days in a month, a maximum concentration for the sample representing any working day and a standard specified as a mass emission per unit of manufacturing output. In the case of pesticides the manufacturing output selected will be kilograms discharged per thousand kilograms of active ingredient produced.

#### A. ALDRIN/DIELDRIN

(1) *Nature and Use; Manufacture and Formulation; Wastewater Characteristics.* Aldrin (1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-1, 4 - endo - 5,8-exo-dimethanonaphthalene) and dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a - octahydro - 1,4 - endo-5,8 - exo - dimethanonaphthalene) are chlorinated hydrocarbon pesticides and have been two of the most widely used domestic pesticides. Although aldrin is used in greater quantity than dieldrin,

it is quickly transformed to dieldrin in the environment. They are currently used primarily for the control of termites, for moth proofing, and for nursery dipping of roots and tops of nonfood plants. Since aldrin is rapidly transformed to dieldrin the term aldrin/dieldrin is used as a single entity. Aldrin/dieldrin bioaccumulates, is persistent, and is toxic to aquatic organisms and consumers of aquatic life, including man.

Aldrin use in the U.S. peaked in 1966 at 19 million pounds, but had dropped to about 10.5 million pounds by 1970. During that same period dieldrin use decreased from one million pounds to about 670,000 pounds.

Based on registrations currently on file with the Agency, neither aldrin nor dieldrin is presently manufactured in the United States. The last manufacturer was the Shell Chemical Company. Shell ceased manufacturing aldrin and dieldrin in 1975 following cancellation by the Environmental Protection Agency of most uses of these pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended by the Federal Environmental Pesticide Control Act of 1972, (7 USC § 135 et seq.), discussed below. EPA's suspension order dated October 1, 1974, permitted use of aldrin and dieldrin for subterranean termite control, as a root and top dip for non-food plants, and for use in closed moth proofing systems.

The manufacturing process at Shell for aldrin did not have a liquid process waste stream. The only liquid waste generated by this part of Shell's plant was floor washings and spill cleanups which were contaminated by small amounts of aldrin. The dieldrin portion of the plant had some contaminated process waste streams. Shell's method of disposal for all chemical waste generated from these operations was an evaporation pond covering approximately 100 acres. Shell estimated the evaporation basin to be capable of evaporating a minimum of 150 gallons of water per minute on a year round average basis. The pond was reported to have had no detectable leaks in its 17 years of use and was used for many other substantial waste streams in addition to discharges from the aldrin/dieldrin manufacturing operations.

There were basically seven types of aldrin and dieldrin formulations available: emulsifiable concentrates, granules, wettable powders, dust, seed dressing, oil solution, and fertilizer mixture. The emulsifiable concentrates accounted for 35 to 40% of the formulated product, while granules accounted for another 35 to 40%. Available data indicate that currently there are 3 plants formulating aldrin and 6 formulating dieldrin products.

(2) *FIFRA Proceedings.* In early 1970, based on a concern to limit dispersal of aldrin/dieldrin in the environment, the U.S. Department of Agriculture cancelled all registrations for these pesticides in or on aquatic areas.

On December 3, 1970, the Environmental Defense Fund, Inc. filed a petition with EPA requesting immediate cancellation and suspension of all Federal registrations of aldrin/dieldrin products under FIFRA on the basis that these substances cause severe environmental damage and appeared to be probable carcinogens.

On March 18, 1971, the Administrator announced that since the material contained in the petition and in scientific literature raised a substantial question as to the safety of these products, EPA was issuing notices of cancellation of all registrations of aldrin and dieldrin products.

In response to a request by 84 companies whose products would be affected by the cancellation order, a scientific advisory committee reviewed the matter and issued a report in March 1972 recommending that the following uses be disallowed: all applications by aircraft; all foliage methods in which residues are discharged into waterways or settling ponds; all uses in structures occupied by humans or livestock; use on turf except as controlled by trained or licensed pest-control operators, greenskeepers and nurseymen; and any use involving application in aquatic environments.

Because the Administrator in 1971 declined to suspend all registrations of aldrin/dieldrin during the administrative cancellation proceedings, the Environmental Defense Fund petitioned for review of this decision in the D.C. Court of Appeals. In May 1972, the Court remanded the matter to EPA for further consideration in light of the advisory committee report, which was issued on May 28, 1972, *Environmental Defense Fund, Inc.* v. *EPA*, 465 F. 2d 528 (D.C., Cir. 1972).

In June 1972, an amended EPA order lifted cancellation of aldrin/dieldrin for restricted termite use, nursery dipping of roots and tops of non-food plants, and mothproofing of woolen textiles and carpets where there is no effluent discharge. These are the only uses for which registrations are being accepted as of the present date. Cancellation of all other major uses of these chemicals was continued.

During the course of the cancellation proceedings substantial evidence was developed indicating strongly that aldrin/dieldrin poses a severe hazard to human health as well as to the health of other organisms, and that it is a dangerous carincogen. Accordingly, the Administrator announced on August 2, 1974, his intention to suspend the registrations and prohibit the production for use of all pesticide products containing aldrin or dieldrin which were the subject of the still-pending cancellation proceedings. Following a hearing before EPA's Chief Administrative Law Judge, and based upon detailed findings of fact and conclusions, suspension was recommended on September 20, 1974, and was then ordered by the Administrator on October 1, 1974. The Administrator's Notice of Intent to Suspend and Findings as to an Imminent Hazard on August 2, 1974, together with the Recommended Decision of the Administrative Law Judge of September 20, 1974, and the Administrator's Opinion and Order on the suspension of October 1, 1974, were published in the FEDERAL REGISTER, Vol. 39, No. 203, captioned *Shell Chemical Co. et al.*, EPA FIFRA Docket Nos. 145 etc, 39 F.R. 37246 et seq. (October 18, 1974).

Thereafter the U.S. Court of Apepals for the D.C. Circuit affirmed the suspension order, remanding only for the limited purpose of considering whether the ban should be broadened to include existing stocks, *Environmental Defense Fund, Inc.* v. *EPA*, 510 F. 2d 1292 (D.C. Cir. 1975). Among other things the court upheld the evidentiary basis for the Administrator's conclusions that aldrin/dieldrin is carcinogenic in mice and rats approved the Agency's extrapolation to humans of data derived from tests on animals, and affirmed the conclusion that aldrin and dieldrin pose a substantial risk of cancer to humans and thus constitute an "imminent hazard" to man.

Notwithstanding the Administrator's decision as to the cancellation of the various uses of aldrin/dieldrin in the United States, the pesticides will continue to be formulated, and may again be produced in this country as long as any uses are permitted and as long as demand for them continues in other parts of the world. Therefore, limits that protect all receiving water uses must be placed on concentrations of aldrin/dieldrin in effluents of plants that produce or formulate these pesticides.

(3) *Toxicity.* Toxic effects resulting from the presence of aldrin/dieldrin in water have been documented for aquatic organisms representing a wide phylogenetic cross section and a wide geographic distribution. Extrapolation of such effects found in laboratory and field studies is a reliable means of predicting the effects of aldrin and dieldrin on individual organisms and their food chains and is recognized as such by the scientific community. In addition to reliable laboratory data, aldrin and dieldrin have been identified as having caused or contributed to a number of fishkills and deaths of other organisms as a result of its use in the environment.

A review of published toxicity values shows that levels in the range of 1 microgram per liter of aldrin and dieldrin are toxic to many fish and invertebrate species, to such commercially important species as the shrimp, and to food chain links such as stoneflies. These pesticides are also acutely toxic to birds and mammals. Human acute poisoning has resulted from ingestion, inhalation and/or skin absorption. Liver damage from chronic exposure has also been reported.

Species which have been tested are found distributed widely in fresh or marine waters and some are important food organisms. The dose concentration which is lethal to 50 percent of a tested species over a period of 96 hours, known as the LC50 (or LD50 or TLm), is a commonly used indicator of acute toxicity. Two examples of important species and their 96-hr LC50 values for aldrin/dieldrin are: 0.7 ug/1 (micrograms per

liter) for the commercially important human food organism, pink shrimp, and 0.5 ug/1 for the stonefly. With aldrin the corresponding value for the hermit crab has been reported as 33 ug/1. A 96-hour LC50 value for the bluegill exposed to aldrin was reported as 5.2 ug/1. Juvenile white mullet yield a 48-hour TLm of 2.8 ug/1. Ninety-six hour LC50 values for the shiner perch and dwarf perch were reported as 2.26 ug/1 and 2.03 ug/1, respectively.

For dieldrin, 96-hr LC50 values have been found to be: bluegill, 2.8 ug/1; shiner perch, 1.5 ug/1; dwarf perch, 2.4 ug/1; and American eel, 0.9 ug/1.

Growth and reproductive performance of the sailfin molly were adversely affected during a 34-week exposure to 0.75 ug/1 dieldrin. Similar results have been reported with other fishes. These effects include changes in oxygen consumption, adverse effects to whole body lipid and liver condition and reduced ability to withstand temperature change.

Dieldrin has been shown to be both acutely and chronically toxic to birds. The LD50 for the sharp-tailed grouse was reported as 6.9 mg/kg (milligrams per kilogram, or parts per million) of body weight. Long-term feeding studies have demonstrated a variety of subacute and chronic effects attributable to aldrin and dieldrin. These include reduced fertility and egg production, adverse behavioral changes as measured by visual cliff tests, growth depression, mortality of young and eggshell thinning.

In rats aldrin and dieldrin have been shown to be acutely toxic at levels of 50–56 mg/kg of body weight. Single doses as low as 30 mg/kg of body weight have produced impaired liver function in rats, while 100 parts per million (ppm) in feed caused abortions in guinea pigs. Effects of dieldrin on other mammals include increased neonatal mortality, fetal malformations, kidney damage, cytogenetic aberrations, liver enlargements, and dose-responsive tumor production. In feeding studies with CF–1 mice, tumors were produced by dietary levels as low as 2.5 ppm.

(4) *Human Health Effects.* Evidence that aldrin/dieldrin poses a cancer hazard to man is provided by laboratory data using rodents. The carcinogenicity of aldrin/dieldrin to mouse strains other than the CF–1 studies mentioned above has been demonstrated. Although the liver is the principal organ affected in the mouse and was a major site of action in rats, there was also an increase in tumors of the lungs and other organs.

Aldrin and dieldrin poisoning of humans may occur by ingestion, inhalation and/or skin absorption. Severe symptoms may result from ingestion or percutaneous absorption of as little as 1 gram, especially in the presence of liver disease. Renal damage, tumors, ataxia and convulsions, followed by central nervous system depression, respiratory failure and death are symptoms resulting from acute exposure. Chronic exposure over a prolonged period may result in liver damage. In humans, pregnancy has been observed to offer a degree of protection from dieldrin intoxication to the mother, but at the expense of the fetus which concentrates dieldrin in its tissues.

Chemicals known to cause cancer in man have been identified only through epidemiological studies, either in the general public or in occupationally exposed workers. In the case of aldrin/dieldrin, epidemiological studies have not been possible because there are no clear-cut differential levels of exposure and because the period of exposure has been too short. Some cancers in man do not develop until late in life, following a 20- to 40-year incubation period. Animal studies are accepted as reliable indicators when assessing the carcinogenic potential of a chemical to man.

Mice and rats are commonly used experimental animal species, both because their relatively short life span permits lifetime testing within a reasonable period of time and because the development of tumors in these species is well known. Laboratory testing has established that aldrin/dieldrin induces cancer in five different strains of mice and probably in the rat. Based on these data this Agency concluded in the FIFRA proceedings discussed above, that aldrin and dieldrin pose a serious cancer risk and health threat to man.

(5) *Persistence and Degradability.* Aldrin is readily converted to dieldrin in the environment, and dieldrin is persistent. If it degrades at all, it does so at an almost imperceptible rate. Few bacterial isolates were found to degrade dieldrin and biodegradation studies using higher organisms confirmed its relatively inert nature with respect to metabolism. Because of these findings it has been concluded that no biological systems are important in reducing the actual toxicity of dieldrin entering their metabolism.

Experimental studies have shown that ultraviolet light produces photoconversion isomers of aldrin/dieldrin which may be more toxic than the original compounds. Sunlight also causes degradation, but overall decomposition rates are inadequate to prevent its persistence in the biosphere. Rain waters, drinking waters and non-potable waters have been shown to contain dieldrin.

(6) *Bioaccumulation.* Because of its extreme insolubility in water and high lipid solubility, aldrin/dieldrin is readily bioaccumulated. A 7,480-fold accumulation has been reported in algae; 114,935 in snails; 100,000 in fish; 247 in crabs and 1,015 in the clam. An ostracod has been shown to accumulate dieldrin to levels as high as 260,000 times those of the initial calculated water concentration. Residues of aldrin and dieldrin have been found in most molluscs, fishes, birds, and mammal species, regardless of geographical location.

(7) *Criteria Formulation.* An ambient water criterion of 0.003 μg/1 would provide for the protection of aquatic life. In view of the persistence, bioaccumulation potential and carcinogenicity of aldrin/dieldrin every reasonable effort should be made to minimize human exposure.

Bioaccumulation studies with aldrin/dieldrin have shown that fish tissue accumulates as much as 100,000 times the ambient water concentrations. The primary impact of this bioaccumulation in fish and their food sources centers on the biological transport of aldrin/dieldrin to birds and to mammals, including man. With carcinogens there is no demonstrated "no effect" level. Therefore all human exposure to aldrin/dieldrin should be minimized.

The National Academy of Sciences recommends that in determining a chronically safe exposure level it is reasonable to apply an "application factor" to available acute toxicity data. The resulting chronic level is lower than the acute toxicity level, since effects from long-term exposure are observed at lower concentrations than in cases of 96-hour or other short-term exposure. The National Academy prescribes an application factor of 0.01 times the demonstrated acute toxicity levels for chlorinated hydrocarbon pesticides such as aldrin/dieldrin. See National Academy of Sciences/National Academy of Engineering, *Water Quality Criteria 1972* (Washington, D.C. 1973), p. 185 (See also *Society of Plastics Ind.* v. *OSHA*, 509 F. 2d 1301, 1308 (2nd Cir, 1975)). Applying this factor to the toxicity data noted above, including acute toxicity to several important species which clustered around or just below the 3 μg/1 level, a criterion of 0.003 μg/1 would be protective of commercially important food organisms such as the pink shrimp, and the organisms at the base of the food chains as represented by the stonefly.

Establishment of so restrictive a criterion is supported by reference to bioaccumulation factors coupled with the aldrin/dieldrin tolerances prescribed by the Food and Drug Administration (FDA) in fish. Aldrin/dieldrin has been shown to bioaccumulate by as much as 100,000-fold in fish. Applying this factor to the FDA tolerance level of 0.3 ppm established for fish yields a concentration ceiling of 0.003 ug/1 in order to avoid exceeding that tolerance. The FDA tolerance is discussed in *United States of America* v. *Ewig Bros. Co., Inc.*, 502 F.2nd 715, n. 31 (7th Cir. 1974).

(8) *Control Technology Available to Manufacturers and Formulators.* Since Shell Chemical Company was the last producer of aldrin and dieldrin and disposed of its wastes in an evaporation pond, little additional research effort has been directed towards alternative treatment facilities. Shell's operation of a lined pond apparently provided effective control, eliminating any direct discharge to the navigable waters. In light of the toxicity data discussed above, any new manufacturer should be required to take advantage of location selection so that evaporation would be a viable means to achieve zero liquid discharge. Similar control technology appears to be available to formulators as well.

Estimates have indicated that a potential domestic market of about 1 million pounds of aldrin with possibly some dieldrin can be developed, particularly if

the use of other pesticides is restricted in such areas as subterranean termite control. In light of this potential market as well as the export market, standard setting is appropriate under section 307 (a) of the Act despite the present limited activity in the manufacturing and formulating of compounds containing aldrin and dieldrin.

Midwest Research Institute (MRI), in studying the control technology, concluded that the lined pond, or lagoon, is feasible for manufacturers.

Formulators employ technologies which are essentially devoid of water use. With the use of roofing, diking, and diversion structures, process-related runoff can be eliminated as a pollution source.

MRI's cost estimates, based upon the potential domestic market described above, are that a small but sufficient evaporation pond would cost approximately $24,100 to install and $5610 per year to operate. Assuming an annual production rate of 1,000,000 pounds of aldrin, this would amount to $12.30 per thousand kilograms produced.

Costs for formulators depend on size of plant and other variables. Costs for roofing and other runoff control measures are estimated to range from $1000 to $4000.

It is expected that evaporation pond technology will not result in significant adverse non-water quality environmental impact, provided that proper care is used in the location, construction, and operation of such a pond.

(9) *Economic Impact*—(a) *Manufacturers.* Currently, there are no manufacturers of aldrin/dieldrin in the United States who discharge to the navigable waters, and due to FIFRA restrictions it appears unlikely that new manufacturing plants will be constructed. If a new plant were to be established, a closed system such as that previously operated by Shell would provide an economically feasible means of compliance. Although accurate costs for a new system which considers opportunities for flow reduction and other in-plant abatement methods are unavailable, the costs experienced by Shell provide a rough upper bound. Thus, the projected capital cost is about $25,000 with an annual operating cost of about $6,000 which equates to $0.006 per pound of aldrin for a 1 million pound plant or 0.6 percent of the current selling price. It is estimated that this additional cost could be passed on as a price increase without significant impact on production or use of the pesticides.

No information was available for assessing potential economic impact in regard to sources who may use this pesticide as a material in the production, preparation, or processing of another synthetic organic substance (other than formulators of this pesticide).

(b) *Formulators.* The assessment of potential economic impact for formulators was carried out for all formulators of the four pesticides together rather than separately for each pesticide. The general conclusion is that there will be no significant costs of compliance, and, therefore, no significant impact on either the formulators or the consumers of their products.

This finding is based on a telephone survey conducted by the economic contractor in which 16 companies operating 32 plants (of the approximately 145 plants believed to currently formulate these products) were contacted. The respondents believed that they are currently in substantial compliance with the proposed prohibition on discharge and that no significant additional costs would be incurred. The economic contractor expects that this finding is generally valid for the formulator industry.

Compliance with the proposed standards is achievable by enclosure of formulation operations to preclude contaminated runoff and disposal of spilled material or washwater. As indicated in the control technology discussion above, EPA estimates that adequate enclosure can be accomplished by the installation of roofing, curbing, and flooring at an annual cost of approximately $1000 to $4000 depending on plant size. Although survey results indicate that these costs will not generally be incurred by formulators, it can be assumed that such costs, if necessary, would fall most heavily on those formulators whose output of the 307(a) pesticides is small in absolute terms (i.e., the cost is large compared to sales volume) but large relative to total output of all pesticides (i.e., the line could not be dropped without potentially serious profit impact). In order to roughly determine the number of plants which might fit this set of conditions, a cost-to-price ratio of 5% or greater and a 307(a) pesticide-to-total output ratio of 5% or greater were selected as criteria which might reasonably define such a set of plants. The application of these criteria indicates that less than 20 plants might fit the specified conditions.

(10) *Rationale for Standards.* Because of the demonstrated toxicity of aldrin/dieldrin to aquatic and other organisms at low concentrations, its persistence in the environment, and the cancer threat posed to man, a prohibition on discharge is proposed for manufacturers and formulators.

In proposing this prohibition the Administrator considered the feasibility of compliance. In this regard the absence of any existing manufacturer, and the fact that the last active manufacturer achieved no discharge using the technology described above, indicates that this standard can be complied with without undue hardship to the industry. Any new manufacturing source reasonably can be expected and required to locate its plant in an area which allows utilization of the evaporation technology employed by the last active manufacturer, or to utilize any additional technology which may be available to achieve zero discharge.

With respect to formulators, a prohibition is likewise feasible. EPA studies have shown that: (1) Formulator operations generally use only small amounts of water, principally related to cleanup; and (2) complete containment of aqueous wastes related to pesticide formulation is an installed, demonstrated practice. Contaminated rainwater runoff can be avoided by enclosure.

B. DDT (DDD, DDE)

(1) *Nature and Use; Manufacture and Formulation; Wastewater Characteristics.* DDT [1,1,1-trichloro-2,2-bis(p-chlorophenyl) ethane and some o,p'-isomers] is a chlorinated hydrocarbon pesticide which has been widely used for the spraying of crops, including notably cotton and tobacco. It has also been used extensively as a household insecticide. Since DDT is almost insoluble in water and is readily sorbed, it tends, in aquatic systems, to associate with particulate material. Because of its high lipid solubility and resistance to degradation, it accumulates in the fatty tissues of aquatic organisms. Its closely associated metabolities, DDD and DDE, are included in the coverage of this regulation, and are collectively referred to as "DDT."

DDT is manufactured presently at only one plant in the United States, the Montrose Chemical Corporation at Torrance, California. It has been estimated that the 1975 production of DDT at this plant was about 60 million pounds, and current production levels appear to be in excess of that. The present sales price for technical grade DDT is about 59¢ per pound. The rate of production for 1976 and 1977 is expected to approach the plant's presently estimated capacity of approximately 85 million pounds per year. Montrose sells technical grade DDT and formulated products to the World Health Organization and the Agency for International Development, as well as directly to foreign nations in both the northern and southern hemispheres.

The Montrose manufacturing plant operates on a three shifts per day, seven days per week basis except for routine maintenance or breakdowns in operating equipment. The company reports on-stream time each calendar year of about 360 days.

The continuous manufacturing process involves the condensing of monochlorobenzene and chloral in the presence of concentrated sulfuric acid. The reaction is kept below 30 degrees celsius and takes place at atmospheric pressure in a stirred reactor system. DDT recovery is by crystallization. Impure DDT crystals are first washed with caustic solution, and then unreacted monochlorobenzene is removed by melting the crystals and bubbling steam through the melt. The purified crystals are then dried and flaked.

Wastewater flow at the Montrose plant is contained within the plant by a closed loop processing system and the use of a sealed bottom holding-recycling pond. Recycle water typically contains 10 to 15 mg/l DDT. Montrose currently segregates about 30,000 gallons/day of alkaline DDT wastes. These wastes are currently removed by truck and placed in a California approved Class I dump. Wastewater from vent scrubbers and surface drainage from the plant area are collected in a holding-recycling pond and recycled to the process. This pond serves

as a surge capacity for the cooling water system.

At present the liquid waste streams segregated in the DDT plant average about 40,000 g llons/day: 30,000 gallons from the caustic liquor DDT washer and miscellaneous sources, and 10,000 gallons of the so-called acid waste which contains spent hydrochloric and sulfuric acids, monochlorobenzene, sodium monochlorobenzene sulfonate, chloral sodium hydroxide, and sulfonic acid derivatives.

Montrose believes that their offsite waste disposal operations may have to be discontinued in the near future because of the complete utilization of acceptable landfill areas. Montrose is therefore investigating alternative methods for treatment and disposal of their process waste.

At present, the composite wastes from the plant contain approximately 60 mg/l DDT, 60 mg/l DDD and 70 mg/l DDE for a total output of approximately 39 lbs/day of DDT and its degradation products. Although there is no present direct discharge to the navigable waters, there could be in the future in light of exhaustion of available landfill sites and the resulting needs for alternative disposal practices.

There is no formulator of DDT known to the Agency at this time with a direct discharge of DDT to the navigable waters. According to FIFRA registrations there is only one company other than Montrose currently engaged in DDT formulation.

(2) *FIFRA Proceedings.* DDT and its derivatives are among the most widely distributed synthetic chemicals on earth. They are found in soils, runoff water, air, rainwater, and in the tissues of animals. Basic characteristics of DDT include persistence, mobility, and a broad range of toxic effects. Because of these toxic effects and the cancer risk to man posed by DDT, most uses of this pesticide were cancelled by the Agency in FIFRA proceedings on June 14, 1972, 37 FR 13369.

In his decision the Administrator stated that he was "persuaded * * * that the long-range risk of continued use of DDT for use on cotton and most other crops is unacceptable and outweighs any benefits." 1972 Order, 37 FR 13369. The Administrator found that "once dispersed, DDT is an uncontrollable, durable chemical that persists in the aquatic and terrestrial environments." 1972 Order, 37 FR 13370. He concluded that DDT was "highly volatile" (37 FR 13370 n. 16) and "transported by drift during aerial application" as well as by runoff (*Id.*, n. 13). He found that, "Given its insolubility in water and its propensity to be stored in tissues, it collects in the food chain and is passed up to higher forms of aquatic and terrestrial life." (*Id.* at 13370). He further found that DDT "can persist in the soils for years and even decades" and "can persist in aquatic ecosystems" (*Id.* at 13375). As a result of its persistence and mobility, the Administrator found that DDT is "concentrated in organisms and transferred through food webs," that DDT "accumulation in the food chain and crop residues results in human exposure," and that "human beings store DDT" in their tissues (*Id.* at 13375).

The Administrator also found that DDT poses hazards to birds, fish and other animal life:

1. DDT affects phytoplankton species' composition and the natural balance in aquatic ecosystems.
2. DDT is lethal to many beneficial agricultural insects.
3. DDT can have lethal and sublethal effects on useful aquatic freshwater invertebrates, including arthropods and molluscs.
4. DDT is toxic to fish.
5. DDT can affect the reproductive success of fish.
6. DDT can have a variety of sublethal physiological and behavioral effects on fish.
7. Birds can mobilize lethal amounts of DDT residues.
8. DDT can cause thinning of birds' eggshells and thus impair reproductive success. (Id at 13375).

With respect to human health, the Administrator found that "DDT causes tumors in laboratory animals," that "there is some indication of metastasis" of such tumors, that "tumor induction in mice is a valid warning of possible carcinogenic properties," that there are "no adequate negative experimental studies in other mammalian species," and that for obvious reasons one cannot run experiments on human beings to gather such data. Accordingly, the Administrator found that DDT poses a cancer risk to man. (Id at 13375).

The Administrator's cancellation order was upheld by the U.S. Court of Appeals for the District of Columbia Circuit in 1973, *Environmental Defense Fund* v. *EPA*, 489 F. 2d 1247 (D.C. Cir. 1973). Subsequently, in reviewing a petition by the State of Louisiana for reconsideration of this order, the Administrator reaffirmed it, finding that recent data strengthened and confirmed the findings on which the prior order was made. 40 CFR 15934 *et seq.* (April 8, 1975).

Notwithstanding the cancellation of most uses of DT under FIFRA, pesticides utilizing DDT will continue to be produced and formulated in this country as long as demand for them continues in other parts of the world. Therefore, limits that protect all receiving water uses must be placed on DDT in effluents of plants that produce and formulate these pesticides.

(3) *Toxicity.* Toxic effects resulting from the presence of DDT in water have been documented for aquatic organisms representing a wide phylogenetic cross section and geographic distribution. A review of published toxicity data shows that DDT causes adverse effects on primary producers, and that 96-hr LC50 values as low as 0.12 ug/l have been demonstrated for some invertebrates. Fish have died from a four-day exposure to 0.4 ug/l. Birds have died from as little as 415 mg/kg of DDT in their feed.

Examples of important aquatic invertebrates and their 96-hr LC50 values are: 2 species of scuds, 0.8 $\mu$g/l and 1.0 $\mu$g/l; sand shrimp, 0.6 $\mu$g/l; and crayfish, 0.24 $\mu$g/l. For the pink shrimp a 28-day TL50 (LC50) of 0.12 $\mu$g/l has been reported. 96-hr LC50 values reported for fish include: Atlantic silverside, 0.4 $\mu$g/l; striped mullet, 0.9 $\mu$g/l; striped killifish, 1.0 $\mu$g/l; largemouth bass, 2 $\mu$g/l; and brown trout, 2 $\mu$g/l. These fish species are widely distributed in the fresh and marine waters o fthe United States. An amphipod widely distributed throughout the waters of the United States has a 48-hr EC50 for DDT of 0.36 $\mu$g/l.

DDT has resulted in numerous fishkills in various parts of the United States. DDT has also been implicated as the cause of blindness as well as abortions among fish which survived relatively high levels of the toxicant, and death of fry of exposed mothers when residues of DDT–DDD in the eggs exceeded 4,750 $\mu$g/kg.

With respect to mammals, LD50 values in the range of 100–500 mg/kg of body weight have been reported for several species. In long-term studies, monkeys fed 50 mg/kg of body weight/day at first showed signs of intoxication, followed by apparent recovery. However, between the 4th and 14th weeks of the experiment, all died. In rabbits, a dosage of 50 mg/kg/day caused premature delivery of young and an increased number of resorptions. A dose of 12 mg/kg/day lowered the reproductive ability of beagle dogs. Effects noted in the dogs included reduced libido, stillbirths and lack of mammary development, with reduced milk production.

Chromosomal abnormalities (primarily deletions and stickiness) have been reported in mice at dosages of 150 ppm or higher in the diet. Further evidence of the mutagenic potential of DDT, DDD and DDE comes from *in vitro* studies with kangaroo rat cell lines, in which concentrations as low as 10 $\mu$g/l of p,p'-isomers of DDT, DDD and DDE in the medium caused cell damage. Administration of 46.4 mg/kg of body weight to two strains of mice maintained on a diet containing 140 ppm resulted in a 50% incidence of hepatomas in 36 males and a 14% incidence in 36 females. In 169 control animals of both sexes, the incidence of hepatomas was 7 percent.

Bald/c mice were fed 2.8 to 3 ppm DDT for six months and were observed for an additional 20 months. In the test group of 684 mice, tumors developed at an incidence greater than in the controls. The DDT-fed group showed a greater incidence of leukemia and malignant tumors than the controls of F1 and F2 generations. The accumulated DDT content in the fatty tissues of the experimental group amounted to 7 to 11 mg/kg—levels comparable to those found in the fatty tissues of urban human populations.

A 1972 study on CF–1 mice fed DDT over their entire lifespans for two generations at concentrations of 2–250 ppm showed an increase at the 10 and 50 ppm levels and a marked increase at 250 ppm. Both age at death with liver tumors and incidence of liver tumors were dose related. An earlier study which used

p,p'-DDT on still another strain of mice produced similar findings.

Russian scientists, in a multi-generation study using A-strain mice fed 10 and 50 ppm DDT in the parent generation and 10 ppm in five succeeding generations, found an increase in lung tumors in all five succeeding generations. A Hungarian report presented data showing that DDT caused a significant increase in leukemia and malignant tumors at several different sites in the second through the fifth generations of mice fed approximately 3 ppm DDT in the diet.

In March 1974, long-term feeding studies of p,p'-DDE, the principal metabolite found in all humans, were reported. At the only feeding level tested (250 ppm), p,p'-DDE was an extremely effective liver carcinogen in both males and females, with a 98 percent incidence of tumors in the females, compared to a one percent incidence in the control animals.

(4) *Human Health Effects.* DDT poisons man primarily by attacking the central nervous system, including the cerebellum and the higher motor cortex. Sensations such as prickling, burning, or itching, as well as tumors or convulsions may follow exposure to appreciable amounts, as well as irritability, nervous tension and fatigue. It also attacks the adrenal gland.

As previously discussed, experimentation with mammals has led to the conclusion that DDT is a potential carcinogen which poses a substantial human health hazard.

(5) *Persistence; Degradability.* DDT is highly persistent. It has been shown to persist in soil for at least 17 years, and persists for many years in the aquatic environment as well. DDT may be transported to water bodies by direct discharges from manufacturing plants, by drifting air sprays applied over fields, and by runoff from treated soils. It accumulates in sediments, suspended particulate matter and living organisms. When it reaches the surface of a water body, it tends to enter the atmosphere by co-distillation with water, thereafter to be transported worldwide by wind and rain.

(6) *Bioaccumulation.* Aquatic organisms are often extremely efficient at concentrating DDT from low ambient water levels to much higher levels in their tissues. Bioaccucmulation of DDT residues as much as two million times ambient water concentrations occur in fish. The oyster has been reported to concentrate DDT by a factor of 70,000. When DDT was applied directly to an estuarine water, residues of 1 part per billion (ppb; equivalent to 1 $\mu$g/l) were found in the water, 15,000 ppb in fish and 800,000 ppb in the porpoise. Sediments in Lake Michigan have been found to average 14 ppb DDT and DDE. An amphipod in the Lake had levels of 410 ppb, while fish had levels 10 times higher, and the concentration of DDT in breast muscle from gulls averaged 27 times that of the concentration in lake alewives. Gull fat had a concentration of 2,441 ppm DDT.

Studies with brook trout have shown that a major source for DDT accumulation can be the food web rather than uptake from water. Thus, the fact that the food organism, *Daphnia magna*, can concentrate DDT to 16,000 to 23,000 times water concentration within 24 hours has highly significant implications for the rest of the food web. In a model ecosystem laboratory study, it was found that mosquito larva, fish and snails concentrated DDT (as DDT, DDD or DDE) from 10,000 to 100,000 times.

From the foregoing it can be seen that DDT and its metabolites accumulate in aquatic food chain organisms, thus becoming available to higher carnivores, including man.

(7) *Criteria Formulation.* An ambient water criterion of 0.001 $\mu$g/l is recommended for protection of aquatic life. In addition, due to the demonstrated carcinogenic activity of DDT every reasonable effort should be made to minimize human exposure.

DDT in water has been shown to be acutely toxic to aquatic vertebrates at 0.12 $\mu$g/l. DDT also has been observed to accumulate in fish tissue to levels two million times those of the ambient water. Mice exposed to 2 mg/kg of DDT in their feed (the lowest dose tested) developed hepatic tumors. Recognizing that 2 mg/kg of DDT in a diet has been demonstrated to cause tumors in mice, the concentration of DDT in aquatic organisms should be less than 2 mg/kg to protect consumers of aquatic organisms. Since bioaccumulation by factors as high as two million has been demonstrated, a level of 0.001 $\mu$g/l in water could produce concentrations as high as 2 mg/kg in fish flesh. Thus, even at a water concentration of 0.001 $\mu$g/l some adverse effects might be expected among animals preying on aquatic organisms.

In man, tissue concentrations can reach levels which cause adverse physiological reactions, including the potential for carcinogenesis. Since there is no demonstrated "no effect" level for carcinogens, and in light of the bioaccumulation potential of DDT, all human exposure should be minimized.

(8) *Control Technology Available to Manufacturers and Formulators.* The only presently operating domestic manufacturer of DDT, Montrose Chemical Company, disposes all liquid wastes to a landfill. With the landfill nearing capacity, Montrose is exploring alternatives, including preatreatment. Montrose has been awarded an EPA grant in conjunction with the Envirogenics Systems Company to evaluate a scheme of treating the alkaline portion of the DDT waste stream which constitutes about three quarters of the total wastewater discharged. It is presumed that acid waste would still be landfilled. The grant application identified a technology which consists of a liquid-liquid extraction using a high shear extraction loop with monochlorobenzene as a solvent. Following either single or double stage extraction, and activated carbon treatment, the wastewater would be discharged to the Los Angeles County sewage system, while the DDT-laden solvent would be processed to recover the solvent. The recovered solvent would be returned to the manufacturing process while the residue would be treated by a Fridel-Crafts destruction system. Bottoms from the Fridel-Crafts reaction would then be either landfilled or possibly incinerated.

The aqueous phase discharge from the extraction loop is estimated to contain about 1 $\mu$g/l of DDT and DDD and 30 $\mu$g/l of DDE in conjunction with a small amount of monochlorobenzene. This wastewater could be treated subsequently by activated carbon to remove essentially all the monochlorobenzene and reduce the total cumulative DDT, DDD, and DDE concentration to approximately 1 $\mu$g/l. The system contemplated for Montrose is for pretreatment at the present time, and not for discharge to any navigable water.

For new manufacturing sources, an evaporation pond similar in concept to that used by Shell Chemical for aldrin/dieldrin could be employed for DDT wastes. Such a system would require selection of a location with a suitable climate and underlying geologic conditions.

By use of control technology similar to that employed by aldrin/dieldrin formulators, DDT formulators can achieve no discharge.

(9) *Economic Impact*—(a) *Manufacturers.* Currently, there are no manufacturers of DDT discharging directly to the navigable waters. However, if a new direct-discharging plant were to be established, it is assumed as indicated above, that compliance could be achieved using a closed system similar to that of the former Shell aldrin/dieldrin plant. Thus, the projected capital cost is about $25,000 with an annual operating cost of about $6000 or $0.00012 per pound of DDT (at an assumed output of 50 million pounds) equivalent to 0.02 percent of current selling price. It is estimated that this additional cost could be passed on as a price increase without significant impact on production or use of the pesticide.

No information was available for assessing potential economic impact in regard to sources who may use this pesticide as a material in the production, preparation, or processing of another synthetic organic substance (other than formulators of this pesticide).

(b) *Formulators.* The assessment of potential economic impact for formulators was carried out for all formulators of the four pesticides together rather than separately for each pesticide. The reader is referred to the discussion of economic impact on formulators presented for aldrin/dieldrin.

(10) *Rationale for Standards.* Because of its toxicity to a wide range of organisms at low dosage levels, its persistence and mobility in the environment, and its cancer risk to man, a prohibition on discharge is proposed for all manufacturers and formulators of DDT, both existing and new sources. Based upon the information available at this time to the Administrator, compliance with this standard is feasible in light of the absence of any known present direct discharger to

the navigable waters, and the availability of evaporation technology for new sources.

The prohibition on discharge proposed herein is predicated on two facts: first, there is no direct discharge to navigable waters at the present time; and second, any potentially new manufacturer or formulator of DDT would have the opportunity to select a site where total waste evaporation would be available, and achieve zero discharge.

C. ENDRIN

(1) *Nature and Use; Manufacture and Formulation; Wastewater Characteristics.* Endrin (1, 2, 3, 4, 10, 10-hexachloro-6, 7, -epoxy-1, 4, 4a, 5, 6, 7, 8, 8a-octahydro-1, 4-endo, -5, 8-endo-dimethanonaphthalene) is one of the chlorinated cyclodiene pesticides.

Since it is non-polar, endrin dissolves more readily in fats than in water, a property common to organic pesticides which bioaccumulate. Like other non-polar molecules in the environment, endrin can be strongly adsorbed by particulate matter, a property of considerable importance in its distribution between the water and sediments of receiving water bodies.

The Velsicol Chemical Corporation plant at Memphis, Tennessee, is the sole manufacturer of endrin in the United States. This facility uses a Diels-Alder reaction of hexachlorocylopentadiene with vinyl chloride. The plant operates 24 hours/day, 7 days/week with production steady throughout the calendar year. It has been estimated that Velsicol produces endrin at an annual rate of about 6 million pounds. At the present time Velsicol is discharging 3 waste streams: two of these, consisting of plant runoff and cooling water amounting to approximately 1,000 gallons/minute and containing about 0.07 lbs/day endrin, are discharged to the navigable waters, while the principal industrial waste stream of about 2,500 gallons/minute with 80$\mu$g/l of endrin contributing about 2.4 lbs/day endrin is discharged to the Memphis sewerage system. Velsicol therefore qualifies as a direct discharger to the navigable waters and is also subject to any applicable pretreatment regulations.

The status of the formulating industry is quite dynamic and the number of formulators varies from year to year. There are 39 currently active formulators with endrin registrations on file with EPA. Endrin is principally formulated as an emulsified concentrate with about 90 percent of the total products being of that nature. Wettable powders and granules constitute the remaining 10 percent of the products that are formulated.

The Midwest Research Institute, under contract with the Agency as noted above, reports that while 39 firms were registered as formulators of endrin, only three were listed in the 1975 *Farm Chemical Handbook* as actually formulating. One of these, Velsicol, both manufactures and formulates endrin. The two other formulators of endrin are located in Florida and achieve zero discharge of process wastewater.

(2) *Toxicity.* Many incidents of endrin-related fishkills have been reported. The types of fish killed have ranged from game fish such as the crappie and bluegill, to non-game fish important in the food chain such as the mosquitofish.

The brown pelican population in the lower Mississippi valley began to decline when endrin was re-introduced to the area in 1974 for cotton insect pest control. Chemical analysis of the brains of dead birds revealed levels of endrin which could account for their deaths. The brown pelican is a fish predator and would receive endrin by way of the food chain, as demonstrated by Rosato and Ferguson in 1968 when consumption of endrin-resistant mosquitofish loaded with endrin resulted in the death of "predators."

Toxic effects resulting from the presence of endrin in water have been documented for aquatic organisms representing a wide phylogenetic cross section and a wide geographic distribution. While all test organisms used may not be universally distributed in the waters of the United States, they do represent organisms present in fresh, marine and estuarine systems thoughout the country. Extrapolation from the effects found in laboratory and field tests is a reliable means for predicting effects of endrin on individual organisms and their food chains and is recognized as such by the scientific community.

A review of published toxicity values shows that endrin is extremely toxic to many fish and to invertebrate species such as stoneflies and shrimp. Endrin is also acutely toxic to birds and mammals. Human poisoning resulting from accidental consumption of endrin-contaminated food also has been reported.

Endrin toxicity values for invertebrate species extend below the one microgram per liter range. The species tested are found distributed widely in fresh or marine waters and some are important human food organisms. Examples of important species and their 96-hour LC50 values are: 0.037 ug/l for the pink shrimp using the flow-through bioassay; and 3.0 ug/l for the scud; 0.25 ug/l and 0.32 ug/l for two species of stoneflies in static bioassays. A 30-day LC50 of 0.035 ug/l has been reported for the naiad of a stonefly species.

The 96-hour TLm (LC50) values for a variety of freshwater fishes have been reported to range from 0.27 $\mu$g/l for coho salmon to 0.048 $\mu$g/l for chinook salmon. Other researchers have reported the 96-hour TLm values for chinook salmon, coho salmon, and rainbow trout as 1.2, 0.51, and 0.58 $\mu$g/l, respectively. The 96-hour TLm for bluntnose minnows has been reported to be 0.27 $\mu$g/l. The bluegill was reported as having a 96-hour TLm value of 0.6 $\mu$g/l, while the striped bass has been shown to have a 96-hour LC50 of 0.94 $\mu$g/l. A 36-hour TLm study on the black bullhead catfish disclosed a value of 0.37 $\mu$g/l. These fish species are widely distributed throughout the fresh waters of the United States.

Marine or estaurine studies also have been conducted using a variety of species representative of coastal United States waters. It has been reported that the static 96-hour TLm (LC50) values vary from 0.3 $\mu$g/l for the striped killifish to 3.1 $\mu$g/l for the Northern puffer. Further, static 96-hour TLm values of 0.44 and 0.50 $\mu$g/l for marine threespine sticklebacks in waters of 5 and 25 parts per thousand salinity, respectively, have been reported.

Birds as well as mammals are very sensitive to endrin poisoning. For example, the LD50 for mallard ducks has been shown to be 5.6 mg/kg. The oral LD50 of endrin to a standard laboratory test animal, the Sherman rat, has been shown to range from 1.8 to 43 mg/kg of body weight.

(3) *Human Health Effects.* Endrin has been reported to cause convulsions or death in humans following consumption of contaminated foods, inhalation or sorption. A compilation of data developed by the Commission of the European Communities details the cases both in the United States and abroad. It was reported that convulsions begin at blood levels of 0.053 $\mu$g/ml. However, there is a rapid elimination of endrin from the blood.

(4) *Persistence; Degradability.* Endrin may be transported to water bodies by direct discharges from manufacturing plant effluent pipes, by drifting air sprays applied to fields, and by runoff from treated soils. Once in the aquatic environment it can persist in the water column, or may enter sediments. It has been shown to persist for at least 14 years in soil and as long as nine years in water.

(5) *Bioaccumulation.* Plants or animals may bioaccumulate endrin. Transfer of endrin from water to organism or sediment, or from organism to organism has been shown to occur. Endrin-resistant strains of food organisms have been shown capable of transferring lethal doses of the pesticide to fish, reptiles or birds. Bioaccumulation levels in fish found in nature have been reported as high as 12,000 ug/kg of dry body weight, while 214,000 ug/kg (428 times the water concentration) has been achieved in resistant fish living in the laboratory.

Fathead minnows exposed to 0.015 ug/l had total body concentrations 10,000 times greater than the water. Residue accumulation up to 10,000-fold was observed in flagfish exposed for 60 days to several concentrations between 0.05 and 0.3 ug/l.

The concentration of endrin in adult medaka tissue has been found to be 17,000 to 26,000 times the water concentration. This degree of accumulation is based only on observations of uptake directly from the water and does not allow for accumulation via the food chain or significantly higher accumulation rates possible in other, untested fish species.

(6) *Criteria Formulation.* Endrin is extremely toxic to important aquatic invertebrates such as shrimp, which are consumed by other aquatic organisms and by man, and to lower species such as stoneflies, which serve as food organisms

for higher aquatic life forms. It is also extremely toxic to such fishes as the coho salmon, the chinook salmon, and rainbow trout, all of which are consumed by man in commercially important quantities.

Endrin degrades more rapidly than DDT and aldrin/dieldrin, and is eliminated from the body more rapidly than either of those substances or toxaphene. At the same time, it has been shown to bioaccumulate in fish flesh by factors as high as 26,000. Research with the flagfish has shown that the safe to lethal ratio, or application factor, for exposure to endrin lies between 0.26 and 0.35 of the 96-hour LC50. Complete life-cycle studies with the sheepshead minnow indicate that a safe to lethal ratio is about 0.3 of the 96-hour LC50. These results indicate that use of the National Academy of Sciences' application factor of 0.01 would be overly protective in the case of endrin, and that an application factor of 0.1 will assure adequate protection.

Based upon the 0.037 $\mu$g/l 96-hour LC50 value for the commercially important pink shrimp, and the 0.048 $\mu$g/l 96-hour LC50 value for the chinook salmon, the aforesaid application factor yields an ambient water criterion of 0.004 $\mu$g/l.

(7) *Control Technology Available to Manufacturers and Formulators.* Three independent systems were identified for potential application to the Velsicol endrin process waste. These processes were adsorption on polymeric resins, e.g., the Rohm and Haas XAD–4 resin; reductive degradation, which is a process identified by the Envirogenics Company which uses iron as the reducing compound and a copper catalyst; and adsorption on activated carbon. These processes were evaluated independently since there are some data available on the Welsicol wastes for resin adsorption and reductive degradation and some data available in the literature on carbon adsorption isotherms for endrin from which estimates could be made on the proper size treatment facilities for Velsicol.

EPA has awarded a research and development grant to Velsicol Chemical Corporation to evaluate, on a pilot plant scale, the resin adsorption system and reductive degradation system, both individually and in series, to determine the treatment efficiency of these systems. The preliminary data based on laboratory scale systems indicated that resin adsorption by itself reduced endrin to approximately 1.4 $\mu$g/l, while the reductive degradation system reduced endrin to approximately 1 $\mu$g/l. With the two systems in series, endin could be reduced to 0.1 $\mu$g/l. Carbon adsorption was estimated to be capable of reducing enrin to about 2 $\mu$g/l using a reasonable design contact time.

By use of controls similar to those used by aldrin/dieldrin and DDT formulators, endrin formulators can achieve no discharge.

(8) *Economic Impact*—(a) *Manufacturers.* The sole endrin manufacturer is both a direct and an indirect discharger and is, therefore, subject to both toxic pollutant effluent standards and pretreatment standards. While the major stream of polluted wastewater is discharged indirectly, the economic impact of the cost of treatment for all streams is considered here under the presumption that Section 307(a) regulations will be issued and require compliance sooner than standards for dischargers to publicly owned treatment works (sometimes referred to as "indirect dischargers") pursuant to Section 307 of the Act. The treatment technologies are available for both direct and indirect dischargers and the costs, as developed by MRI, are applicable in either instance. The Agency presently expects to propose pretreatment standards for endrin requiring approximately the same limitations on discharges based upon the same technologies as set forth herein. As indicated in paragraph (7) above, the discharger could achieve compliance with either the resin adsorption or the reductive degradation system.

For impact assessment we have examined the less costly system, reductive degradation, assuring the discharger would be expected to elect the lesser cost system. According to the MRI data, the projected additional capital cost is $242–362 thousand and the additional annual operating cost is $109–161 thousand or $0.02–0.03 per pound of endrin produced which represents 0.6–0.9 percent of the selling price of endrin. It is estimated that this additional cost could be passed on as a price increase without significant impact on production or use of the pesticide. For a new source, compliance with the more stringent standard would require use of the resin adsorption and reductive degradation systems in series. The new source cost based on a 6 million pound plant would be approximately $1.5 million investment and $1.2 million annual operating cost or $0.20 per pound. This cost is considered a "worst case" since it does not include further flow reductions or other in-plant modifications available to a new plant. This additional cost, which represents 6.7 percent of the current selling price, could probably be absorbed or partially passed on as a price increase without significant impact on the production or use of endrin.

No information was available for assessing potential economic impact in regard to sources who may use this pesticide as a material in the production, preparation, or processing of another synthetic organic substance (other than formulators of this pesticide).

(b) *Formulators.* The assessment of potential economic impact for formulators was carried out for all formulators of the four pesticides toegther rather than separately for each pesticide. The reader is referred to the discussion of economic impact on formulators presented for aldrin/dieldrin.

(9) *Rationale for Standards.* The ambient water criterion for endrin was determined to be 0.004 $\mu$g/l. Although an effluent discharge of that concentration level would provide an ample margin of safety even for organisms located at the immediate outfall over a 96-hour period, there does not appear to be an available control technology to achieve this level in an effluent stream. Technology would appear, however, to be capable of achieving a concentration of 0.1 to 1 $\mu$g/l based upon laboratory data. In actual practice it appears reasonable to expect that the reductive degradation system or the resin adsorption system could achieve at least 1.5 $\mu$g/l and, if used together, even lower levels can be expected. A standard of 1.5 $\mu$g/l, given the usual dispersion factors following discharge, would appear to provide an ample margin of safety for important organisms which might be affected by the discharge. This concentration is proposed as a monthly average standard for existing dischargers.

A maximum concentration level of 7.5 $\mu$g/l in samples representing any working day will provide safety against acute toxic effects from a single "dose" or "slug" in excess of the monthly average. An overall weight limit of 0.0003 kg/kkg of production will provide a reasonable overall limitation on the amount of endrin placed into the environment from such sources.

For new manufacturing point sources, time exists to plan for even better technology, which can in turn be expected to provide an even greater margin of safety than that required of existing sources. This would include, for example, the use of resin adsorption plus reductive degradation to achieve a concentration level of 0.1 $\mu$g/l. This then is proposed as the average monthly concentration with a weight loading maximum of 0.00002 kg/kkg of production, and a maximum concentration level of 0.5 $\mu$g/l in samples representing any working day.

The mass emission loadings for the pesticide manufacturers were calculated by using existing flows at a selected plant multiplied by the average concentration specified in the standards and by a conversion factor to yield kg per day. The average daily production was determined by providing the maximum estimated annual production (in kg) by the number of operating days per year if known, or by 360 if not known. The allowable pollutant emission per unit of production was then calculated by dividing the average daily mass emission by the estimated average daily production.

In the case of endrin manufacturing, the specified parameters were taken from those of the Velsicol plant. The average concentration was 1.5 $\mu$g/l for existing sources and 0.1 $\mu$g/l for new sources, the flow selected was 300 gallons per minute (gpm), and the annual production was 6 million lbs of endrin.

The intention of the Agency in including such a mass emission rate is the avoidance of the sole application of dilution by a discharger in lieu of actual reduction either by in-process changes or by add-on treatment or both. Although toxic effects are basically concentration-related, the Agency believes that one objective of section 307(a) is to minimize the discharges of toxic pollutants regardless of concentration.

For formulators, a prohibition of discharge is proposed, since this provides the maximum degree of safety and appears to be feasible. The Agency does not have any information indicating that this would cause undue hardship to any formulators.

There may be some instances where receiving water conditions are such that a discharge at the level proposed in this standard may result in a cronic or ambient concentratoin of endrin in the receiving waters in excess of 0.004 μg/1, owing to discharges from other sources, or hydrologic or hydrographic conditions, or both, even beyond the area of a reasonable mixing zone. The "tightheningˮ variance established in § 129.7 of these regulations is available to the permit issuing authority to require a more stringent limitation in order to achieve or contribute to the achievement of the desired concentration level. An alternative authority which may be utilized to achieve the same objective is that established in section 301(b)(1)(C) of the Act, expressly preserved in § 120.5(e) of these regulations, which requires a more stringent limitation wherever needed to meet applicable water quality standards or other requirements of law. The Agency expects that the States will, in due course, establish such water quality standards pursuant to Section 303 and, where applicable, section 208 of the Act.

D. TOXAPHENE

(1) *Nature and Use; Manufacture and Formulation; Wastewater Characteristics.* Toxaphene is defined as chlorinated camphene (67–69 percent chlorine) and has the empirical formula C(10)H(10)Cl(8) with an average molecular weight of 414. Toxaphene is commercially produced by reacting camphene and chlorine in the presence of ultraviolet radiation and certain catalysts to yield the final chlorinated camphene product. Like other chlorinated hydrocarbon pesticides in the aquatic environment, toxaphene degrades slowly and bioaccumulates in fatty tissue of animals.

There are four manufacturers of the generic compound toxaphene in the United States: the Hercules, Inc. plant at Brunswick, Georgia; the Tenneco Chemicals, Inc. plant at Fords, New Jersey; the Vicksburg Chemical Company plant in Vicksburg, Mississippi; and the Riverside Chemical Company, at Groves, Texas.

Estimates of production figures for toxaphene indicate that Hercules produces 50 to 80 million pounds/year, Tenneco produces 10 to 11 million pounds/year, Riverside produces 12 to 14 million pounds/year, and Vicksburg produces 9 to 11 million pounds/year.

Comparisons among the plants indicate substantial differences in wastewater flow rates. Such differences are caused by both the sales of by-product muriatic acid and the type manufacturing process employed.

Of the manufacturers, only Hercules, Inc. has installed treatment at the present time. Hercules provides neutralization by use of a limestone containing substantial clay impurities. The clay impurity is designed to provide surface area for adsorption of toxaphene. The mixture is put through settling lagoons, then mixed with other effluents from the manufacturing complex and discharged to a small creek before going into St. Simon's Sound. Hercules currently discharges about 114 μg/1 of toxaphene in about 2.4 million gallons of treated water per day.

Tenneco Chemicals, Inc. sells by-product muriatic acid and discharges very small amounts of liquid waste (about 100 gallons/day) with a claimed concentration of toxaphene of less than 5 μg/1. This discharge goes to the Middlesex County Sewer system for subsequent treatment.

Vicksburg Chemical Company is a direct discharger to the Mississippi River. Discharges from this plant amount to some 14,000 gallons per day from their caustic scrubber. The discharge is claimed to contain a low level of toxaphene.

Riverside Chemical Company discharges approximately 12,000 gallons/day with an estimated 300 μg/1 of toxaphene in the effluent. This discharge also constitutes direct discharge to the navigable waters, but at the present time no treatment is provided.

With respect to formulators, there are approximately 133 currently active formulators with registrations for toxaphene on file with EPA. Emulsifiable concentrate and wettable powders account for about 90% of the products with the remainder accounted for by dust and oil solutions. EPA has issued a few NPDES permits to formulators discharging toxaphene.

(2) *Toxicity.* Toxic effects resulting from the presence of toxaphene in water have been documented for aquatic organisms representing a wide phylogenetic cross section and geographic distribution.

A review of published toxicity values shows that toxaphene is extremely toxic to many fish and to invertebrate species such as shrimp in marine waters and the stonefly in fresh waters. Toxaphene 96-hour LC50 values for stoneflies range from 1.3 μg/1 to 3.0 μg/1. The pink shrimp, a commercially important food organism, and the grass shrimp, an important link in the food chain, were shown to have 96-hour EC50 values of 1.4 μg/1 and 4.4 μg/1 respectively. The American oyster, which is taken for human food both commercially and recreationally, had a 96-hour EC50 of 4.9 μg/1. All of these organisms are of food chain importance and are widely distributed in fresh or marine waters.

Considerable work has been done on the effects of toxaphene on freshwater fish. Species representing those found in nearly all U.S. waters and species of both commercial and game fishing importance have been tested. Some representative 96-hour LC50 values determined in static bioassays are: largemouth bass 2 μg/1; brown trout, 3 μg/1; carp, 4 μg/; rainbow trout, 11 μg/1; coho salmon, 8 μg/1; channel catfish, 13 μg/1; fathead minnow, 5.1 μg/1; and chinook salmon, 2.5 μg/1.

The pinfish, a marine species found from Cape Cod to the Yucatan Peninsula, had a 96-hour EC50 of 0.5 μg/1 in a flow-through bioassay. Similarly the TL50 (TLm or LC50) for the striped bass has been reported as 4.4 μg/1. These fish represent an important link in the food chain for man and other consumers of aquatic life, including those within the aquatic ecosystem.

In addition to the foregoing acute toxicity data, the chronic, or long-term effects of toxaphene have been documented. For example, it has been demonstrated in flow-through bioassays that 0.28 μg/1 will, during a 128-day exposure, result in the stunting of yearling brook trout.

Toxaphene has been shown to be toxic to a variety of birds including ducks, grouse, pheasants and cranes with the LD50's being reported as 99 mg/kg; 50 mg/kg; 10 mg/kg; 100 mg/kg respectively. The chronic effects are manifested by decreased egg laying, hatchability, and food intake, and subsequent decrease in weight gains. Examples of LC50 values of toxaphene for mammalian species are: rat, 60 mg/kg; dog, 49 mg/kg; guinea pig, 270 mg/kg; cat 25 mg/kg; rabbit, 75 mg/kg.

Toxaphene has been implicated in a number of fishkills. Unusually high mortalities were observed in fish-eating birds at the Tule Lake and Lower Klamath Refuge in 1960, 1961, and 1962. The mortalities were reportedly and apparently due to application of large quantities of toxaphene for several years, starting in 1956, to the agricultural lands immediately surrounding the refuge. Water from the farmlands drains into the marshes. Toxaphene was found in the fish from the marshes at levels of about 8 ppm.

(3) *Human Health Effects.* In humans, acutely toxic doses of toxaphene produce symptoms that include salivation, spasms of the leg and back muscles, nausea, vomiting, hyperexcitability, tremors, chronic convulsions and tetanic contractions of all skeletal muscles. Most of these effects are the results of diffuse stimulation of the cerebrospinal axis. After lethal doses the convulsions continue until death occurs. Respiration is arrested due to tetanic muscular contractions.

When toxaphene was first used, four cases of poisoning by ingestion in children under 4 years of age were reported. The same report contained a description of severe toxaphene poisoning in adults from accidents or injudicious use of the pesticide. The dosage of toxaphene estimated to have been ingested by three of the people ranged from 9.5 to 47 mg/kg.

(4) *Persistence and Degradability.* Toxaphene may persist in soil from several months to more than 10 years. It has been shown to persist for up to 9 years in lakes and ponds.

(5) *Bioaccumulation.* Bioaccumulation of toxaphene has been shown to occur in a number of freshwater and marine species. In addition, toxaphene has been shown to persist in the aquatic environment for years. This poses a

latent and continuing threat to aquatic life of commercial and recreational importance. The accumulation by such widespread organisms as oysters, trout, and catfish, all of which are consumed by man, carries the threat of toxic effects directly to man.

Toxaphene has been shown to bioaccumulate in Davis Lake, Oregon, to concentrations in aquatic organisms at many times the water levels. In a study conducted there during 1961–1963 the following bioaccumulation ratios between organism tissue and water concentration were observed: 500 for aquatic plants, 1000 to 2000 for aquatic invertebrates, 10,000 to 20,000 for rainbow trout, 4000 to 8000 for Atlantic salmon and 1000 to 2000 for lake bottom and mud.

In a study using marine organisms it was demonstrated that an accumulation of as much as 30 ppm took place in oysters exposed for 24 weeks to 1 ppb of toxaphene—a concentration factor of 30,000. In the ensuing 16 weeks in clean seawater the oysters excreted 90 percent of this load, but retained 3.0 ppm in their tissues—still 3,000 times the water concentration they had been exposed to originally. The oyster is a species used for human food and is of both commercial and recreational importance.

(6) *Criteria Formulation.* The available scientific data establish that toxaphene is a powerful insecticide capable of persisting in the aquatic environment, the soil or animal tissues for long periods, capable of bioaccumulating by factors of as much as 30,000, and capable of producing chronic deleterious effects on fish at levels as low as 0.039 $\mu$g/l for brook trout and 0.055 $\mu$g/l for the fathead minnow. Since at least some aquatic organisms can readily bioaccumulate toxaphene, formulation of criteria for this pesticide in waterways must take into account the potential danger to terrestrial predators, including man, which consume that aquatic life. Moreover, many important aquatic organisms are explicitly sensitive to direct poisoning by toxaphene and must themselves be protected.

Acute toxicity has been reported at levels as low as 0.5 $\mu$g/l of toxaphene. Thus, some damage to aquatic life could be expected at higher levels. At levels of around 1.0 $\mu$g/l a large number of species are known to be affected. These include 96-hr LC50 or comparable data for stoneflies at 1.3 $\mu$g/l; the sheepshead minnow at 1.1 $\mu$g/l; the black bullhead at 1.8 $\mu$g/l; the pinfish at 0.5 $\mu$g/l; the pink shrimp at 1.4 $\mu$g/l and the spot (48-hr LC50; 1 $\mu$g/l; 144-hr LC50; 0.5 $\mu$g/l).

These data cluster between 0.5 and 1.0 $\mu$g/l. The pinfish, an organism of wide geographic distribution and of ecological importance in the food chain, has an LC50 value of 0.5 $\mu$g/l. The use of the National Academy of Sciences' application factor of 0.01 is especially appropriate in the case of toxaphene since long-term studies with fathead minnows and brook trout failed to establish a no-effect level. Application of this factor to the pinfish data yields an ambient water criterion of 0.005 $\mu$g/l.

(7) *Control Technology Available to Manufacturers and Formulators.* The only existing system at full scale for treating toxaphene manufacturing wastes is that of Hercules, Inc. MRI, using information developed by Envirogenics and Rohm and Haas Company on laboratory scale processes, has indicated that any of the resin adsorption, reductive degradation, and activated carbon systems would be transferrable to toxaphene-type wastes with a reasonable degree of confidence. It was likewise believed that the reductions achieved in full scale operation would be comparable to those achieved in the laboratory scale operations.

The available data indicates that the resin adsorption system is capable of reducing toxaphene to 1.4 $\mu$g/l and the reductive degradation system to approximately 3 $\mu$g/l. The resin adsorption and reductive degradation in series appears to reduce toxaphene to 0.1 $\mu$g/l. Activated carbon appears to reduce toxaphene to less than 5 $\mu$g/l. These data are based upon laboratory studies.

By use of controls similar to those used by aldrin/dieldrin and DDT formulators, toxaphene formulators can achieve no discharge.

(8) *Economic Impact*—(a) *Manufacturers.* Three toxaphene manufacturers are subject to the direct discharge regulations. For purposes of economic analysis the least-cost treatment system was assessed assuming that the discharger would elect to install the least-cost system. Based upon this assumption investment costs for all 3 plants total $603–776 thousand and annual operating costs $416–521 thousand. Expressed in relation to the current selling price these additional costs represent 1.1, 1.3, and 1.6–2.1 percent for Vicksburg, Riverside, and Hercules, respectively.

Although this spread suggests possible effects on the competitive structure of this industry, the results are difficult to predict given a lack of detailed information on production costs, margins, and relative market strengths of the companies involved. However, given the relatively low costs involved it seems likely that significant impact on production and use of toxaphene will be avoided by some combination of price increase and cost absorption and that intra-industry competitive effects will be minimized.

For a hypothetical new plant of 55 million pounds capacity the additional cost of compliance (based on resin adsorption and reductive degradation in series) will represent approximately 2–4 percent of selling price which may be considered an upper bound since new plants generally have less costly alternatives to end-of-pipe treatment. As with existing plants, this additional cost can presumably be accommodated with a combination of price increase and cost absorption without significant impact on production and use.

No information was available for assessing potential economic impact in regard to sources who may use this pesticide as a material in the production, preparation, or processing of another syntheic organic substance (other than formulators of this pesticide).

(b) *Formulators.* The assessment of potential economic impact for formulators was carried out for all formulators of the four pesticides together rather than separately for each pesticide. The reader is referred to the discussion of economic impact on formulators presented for aldrin/dieldrin.

(9) *Rationale for Standards.* Considering the toxicity data and the technology data set forth above, standards are proposed for existing toxaphene manufacturers of 1.5 $\mu$g/l, on the monthly average or 0.00001 kg/kkg of toxaphene produced, not to exceed 7.5 $\mu$g/l in samples repersenting any working day. For new sources innovative process changes and designs can be utilized. These include, at the least, use of resin adsorption and reductive degradation in series, as well as the option of selecting a plant site to achieve net evaporation. These factors will allow a greater margin of safety to be achieved through more stringent limitations. Hence, for new sources, the proposed standards are on a monthly average, 0.1 $\mu$g/l or 0.0000006 kg/kkg of toxaphene produced, not to exceed 0.5 $\mu$g/l in samples representing any working day.

Mass emission standards for toxaphene were calculated using the same procedures as outlined for endrin, above. The manufacturer from which the specified parameters were taken was the Hercules plant at Brunswick, Georgia, which is the largest toxaphene manufacturer, and on which considerable data are available. The average concentration used was 1.5 $\mu$g/l for existing sources and 0.1 $\mu$g/l for new sources, the flow selected was 2.4 million gpd, and the annual production was 80 million lbs of toxaphene.

For toxaphene formulators, considering the absence of any known existing direct dischargers and the demonstrated technology of evaporation ponds for new sources, a prohibition on discharge is proposed.

As in the case of endrin a more stringent limitation should be required pursuant to the provisions of § 129.7 or 129.5 (e) in the case of any individual discharger when, because of unusual site-specific circumstances, a discharge at the level prescribed in the standard will result in an ambient or chronic concentration in the receiving water, even outside of any mixing zone, in excess of the ambient water criterion. This will assure provision of the margin of safety for the ecosystem required by the Act.

## III. Public Participation in Rulemaking Process

A public hearing to consider the proposed effluent standards will be held pursuant to section 307(a)(2) of the Act commencing July 12, 1976,[1] at 1:30 PM

[1] The date entered here will be 30 days following publication of this proposal. If that date falls on a Saturday, Sunday, or holiday, the date entered will be that of the previous working day.

in Room 2409, Waterside Mall at 401 M Street, SW., Washington, D.C.

In accordance with the Agency's rules of practice governing public hearings on effluent standards for toxic pollutants, 40 CFR Part 104 as amended, 41 FR 17898 (April 29, 1976), the first hearing day shall include a prehearing conference at the above time and place. All persons interested in participating in those hearings as objecting parties should refer to the amended rules of practice, and should not rely on previous editions. Any person who has any objection to any standard proposed herein may file with the Hearing Clerk (A-100), Room 1019 WSME, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, within 25 days of the date of this notice, a statement of objection in triplicate which shall meet all of the requirements of 40 CFR §§ 104.3 (a) and (b). The presiding officer may refuse to permit any person to participate in said hearing who fails to comply with any of the provisions of those sections.

In addition to the foregoing, any person interested in this proposed rulemaking but who does not participate as a party in the formal hearing may submit written comments to the Agency on the proposed rulemaking. Such comments should be filed in triplicate, if possible, and should be addressed to: Hearing Clerk (A-100), Room 1019 WSME, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. All comments which are received by the hearing clerk and which are postmarked on or before July 12, 1976 shall become a part of the hearing record in the manner prescribed in 40 CFR. § 104.3(d) and shall be considered by the Administrator prior to the promulgation of final standards.

Dated: June 1, 1976.

JOHN QUARLES,
*Acting Administrator.*

Chapter I of Title 40, Code of Federal Regulations, is amended by revising Part 129, as follows:

## PART 129—TOXIC POLLUTANT EFFLUENT STANDARDS

### Subpart A—Toxic Pollutant Effluent Standards and Prohibitions


Sec.
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129.2 Definitions.
129.3 Abbreviations.
129.4 Toxic pollutants.
129.5 Compliance.
129.6 Adjustment of effluent standard for presence of toxic pollutant in the intake water.
129.7 Requirement and procedure for establishing a more stringent effluent limitation.
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129.9–129.99 [Reserved]
129.100 Aldrin/Dieldrin.
129.101 DDT, DDD and DDE.
129.102 Endrin.
129.103 Toxaphene.


AUTHORITY: Sec. 307, 308, and 501 of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500, 86 Stat. 816, (33 U.S.C. 1251 *et seq.*)).

### Subpart A—Toxic Pollutant Effluent Standards and Prohibitions

**§ 129.1 Scope and purpose.**

(a) The provisions of this Subpart apply to owners or operators of specified facilities discharging into navigable waters.

(b) The effluent standards or prohibitions for toxic pollutants established in this Subpart shall be applicable to the sources and pollutants hereinafter set forth, and may be incorporated in any NPDES permit, modification or renewal thereof, in accordance with the provisions of this Subpart.

(c) The provisions of 40 CFR Parts 124 and 125 shall apply to any NPDES permit proceedings for any point source discharge containing any toxic pollutant for which a standard or prohibition is established under this Part.

**§ 129.2 Definitions.**

All terms not defined herein shall have the meaning given them in the Act or in 40 CFR Parts 124 or 125. As used in this Part, the term:

(a) "Act" means the Federal Water Pollution Control Act, as amended (Pub. L. 92-500, 86 Stat. 816 *et seq.*, (33 U.S.C. 1251 *et seq.*)). Specific references to sections within the Act will be according to Pub. L. 92-500 notation.

(b) "Administrator" means the Administrator of the Environmental Protection Agency or any employee of the Agency to whom the Administrator may by order delegate the authority to carry out his functions under section 307(a) of the Act, or any person who shall by operation of law be authorized to carry out such functions.

(c) "Effluent standard" means, for purposes of section 307, the equivalent of "effluent limitation" as that term is defined in section 502(11) of the Act with the exception that it does not include a schedule of compliance.

(d) "Prohibited" means that the constituent shall be absent in any discharge subject to these standards, as determined by any analytical method.

(e) "Permit" means a permit for the discharge of pollutants into navigable waters under the National Pollutant Discharge Elimination System established by section 402 of the Act and implemented in regulations in 40 CFR Parts 124 and 125.

(f) "Working day" means the hours during a calendar day in which a facility discharges effluents subject to this Part.

(g) "Ambient water criterion" means that concentration of a toxic pollutant in a navigable water that, based upon available data, will not result in adverse impact on important aquatic life, or on consumers of such aquatic life, after exposure of that aquatic life for periods of time exceeding 96 hours and continuing at least through one reproductive cycle; and will not result in a significant risk of adverse health effects in a large human population based on available information such as mammalian laboratory toxicity data, epidemiological studies of human occupational exposures, or human exposure data, or any other relevant data.

(h) "New Source" means any source discharging a toxic pollutant, the construction of which is commenced after proposal of an effluent standard or prohibition applicable to such source if such effluent standard or prohibition is thereafter promulgated in accordance with section 307.

(i) "Existing Source" means any source which is not a new source as defined above.

(j) "Source" means any building, structure, facility, or installation from which there is or may be the discharge of toxic pollutants designated as such by the Administrator under section 307(a)(1) of the Act;

(k) "Owner or operator" means any person who owns, leases, operates, controls or supervises a source as defined above.

(l) "Construction" means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(m) "Manufacturer" means any establishment engaged in the mechanical or chemical transformation of materials or substances into new products including but not limited to the blending materials such as pesticidal products, resins, or liquors.

(n) "Process Wastes" means any designated toxic pollutant, whether in wastewater or otherwise present, which is inherent to or unavoidably resulting from any manufacturing process, including that which comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product and is discharged into the navigable waters.

(o) "Air emissions" means the release or discharge of a toxic pollutant by an owner or operator into the ambient air either (1) by means of a stack or (2) as a fugitive dust, mist or vapor as a result inherent to the manufacturing or formulating process.

(p) "Fugitive dust, mist or vapor" means dust, mist or vapor containing a toxic pollutant regulated under this Part which is emitted from any source other than through a stack.

(q) "Stack" means any chimney, flue, conduit, or duct arranged to conduct emissions to the ambient air.

(r) "Ten year 24-hour rainfall event" means the maximum precipitation event with a probable recurrence interval of once in 10 years as defined by the National Weather Service in technical paper No. 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments or equivalent regional or State rainfall probability information developed therefrom.

(s) "State Director" means the chief administrative officer of a State or interstate water pollution control agency operating an approved NPDES permit pro-

gram. In the event responsibility for water pollution control and enforcement is divided among two or more State or interstate agencies, the term "State Director" means the administrative officer authorized to perform the particular procedure to which reference is made.

§ 129.3 Abbreviations.

The abbreviations used in this Part represent the following terms:

lb—pound (or pounds)
g—gram
µg/l—micrograms per liter (1 one-millionth gram/liter)

§ 129.4 Toxic pollutants.

The following are the pollutants subject to regulations under the provisions of this subpart:

(a) Aldrin/Dieldrin—"Aldrin" means the compound aldrin as identified by the chemical name, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro - 1,4 - endo - 5,8-exo-dimethanonaphthalene; "Dieldrin" means the compound dieldrin as identified by the chemical name 1,2,3,4,10,10-hexachloro - 6,7 - epoxy-1,4.4a,5,6,7,8,8a-octahydro - 1,4-endo-5,8-exo-dimethanonaphthalene.

(b) DDT—"DDT" means the compounds DDT, DDD, and DDE as identified by the chemical names: (DDT)-1,1,1 - trichloro - 2,2,bis(p-chlorophenyl) ethane and some o,p'-isomers; (DDD) or (TDE)-1,1-dichloro-2,2-bis(p-chlorophenyl) ethane and some o,p'-isomers; (DDE) 1,1 - dichloro - 2,2-bis(p-chlorophenyl) ethylene.

(c) Endrin—"Endrin" means the compound endrin as identified by the chemical name 1,2,3,4,10,10-hexachloro-6,7-epoxy-1, 4,4a,5,6,7,8,8a - octahydro - 1,4-endo-5,8-endodimethanonaphthalene.

(d) Toxaphene—"Toxaphene" means a material consisting of technical grade chlorinated camphene having the approximate formula of C(10)H(10)Cl(8) and normally containing 67–69 percent chlorine by weight.

§ 129.5 Compliance.

(a)(1) Within 60 days from the date of promulgation of any toxic pollutant effluent standard or prohibition each owner or operator with a discharge subject to that standard or prohibition must notify the Regional Administrator (or State Director, if appropriate) of such discharge. Such notification shall include such information and follow such procedures as the Regional Administrator (or State Director, if appropriate) may require.

(2) Any owner or operator who does not have a discharge subject to any toxic pollutant effluent standard at the time of such promulgation but who thereafter commences or intends to commence any activity which would result in such a discharge shall first notify the Regional Administrator (or State Director, if appropriate) in the manner herein provided at least 60 days prior to any such discharge.

(b) Upon receipt of any application for issuance or reissuance of a permit or for a modification of an existing permit for a discharge subject to a toxic pollutant effluent standard or prohibition the permitting authority shall proceed thereon in accordance with 40 CFR Parts 124 or 125, whichever is applicable.

(c)(1) Every permit which contains limitations based upon a toxic pollutant effluent standard or prohibition under this Part is subject to revision following the completion of any proceeding revising such toxic pollutant effluent standard or prohibition regardless of the duration specified on the permit.

(2) For purposes of this section, all toxic pollutants for which standards are set under this Part are deemed to be injurious to human health within the meaning of section 402(k) of the Act unless otherwise specified in the standard established for any particular pollutant.

(d)(1) Upon the compliance date for any section 307(a) toxic pollutant effluent standard or prohibition, each owner or operator of a discharge subject to such standard or prohibition shall comply with such monitoring, sampling, recording, and reporting conditions as the Regional Administrator (and/or State Director, if appropriate) may require for that discharge. Notice of such conditions shall be provided in writing to the owner or operator.

(2) In addition to any conditions required pursuant to subparagraph (d)(1) of this section and to the extent not required in conditions contained in NPDES permits, within 60 days following the close of each calendar year each owner or operator of a discharge subject to any toxic standard or prohibition shall report to the Regional Administrator (and State Director, if appropriate) concerning the compliance of such discharges. Such report shall include, as a minimum, information concerning (i) relevant identification of the discharger such as name, location of facility, discharge points, receiving waters, and the industrial process or operation emitting the toxic pollutant; (ii) relevant conditions (pursuant to subparagraph (d)(1) of this section or to an NPDES permit) as to flow, section 307(a) toxic pollutant concentrations, and section 307(a) toxic pollutant mass emission rate; (iii) compliance by the discharger with such conditions.

(3) When samples collected for analysis are composited, such samples shall be composited in proportion to the flow at time of collection and preserved in compliance with requirements of the Regional Administrator (or State Director, if appropriate), but shall include at least five samples collected at approximately equal intervals throughout the working day.

(e)(1) Nothing in these regulations shall preclude a Regional Administrator from requiring in any permit a more stringent effluent limitation or standard pursuant to section 301(b)(1)(C) of the Act and implemented in 40 CFR 125.11 and other related provisions of 40 CFR Part 125.

(2) Nothing in these regulations shall preclude the Director of a State Water Pollution Control Agency or interstate agency operating a National Pollutant Discharge Elimination System Program which has been approved by the Administrator pursuant to section 402 of the Act from requiring in any permit a more stringent effluent limitation or standard pursuant to section 301(b)(1)(C) of the Act and implemented in 40 CFR 124.42 and other related provisions of 40 CFR Part 124.

(f) Any owner or operator of a facility which discharges a toxic pollutant to the navigable waters and to a publicly owned treatment system shall limit the summation of the mass emissions from both discharges to the less restrictive standard, either the direct discharge standard or the pretreatment standard; but in no case will this Subsection allow a discharge to the navigable waters greater than the toxic pollutant effluent standard established for a direct discharge to the navigable waters.

(g) In any permit hearing or other administrative proceeding relating to the implementation or enforcement of these standards, or any modification thereof, or in any judicial proceeding other than a petition for review of these standards pursuant to section 509(b)(1)(C) of the Act, the parties thereto may not contest the validity of any national standards established in this Part, or the ambient water criterion established herein for any toxic pollutant.

§ 129.6 Adjustment of effluent standard for presence of toxic pollutant in the intake water.

(a) Upon the request of the owner or operator of a facility discharging a pollutant subject to a toxic pollutant effluent standard or prohibition, the Regional Administrator (or State Director, if appropriate) shall give credit, and shall adjust the effluent standard(s) in such permit to reflect credit for the toxic pollutant(s) in the owner's or operator's water supply if (1) the source of the owner's or operator's water supply is the same body of water into which the discharge is made and if (2) it is demonstrated to the Regional Administrator (or State Director, if appropriate) that the toxic pollutant(s) present in the owner's or operator's intake water will not be removed by any wastewater treatment systems whose design capacity and operation were such as to reduce toxic pollutants to the levels required by the applicable toxic pollutant effluent standards in the absence of the toxic pollutant in the intake water.

(b) Effluent limitations established pursuant to this Section shall be calculated on the basis of the amount of Section 307(a) toxic pollutant(s) present in the water after any water supply treatment steps have been performed by or for the owner or operator.

(c) Any permit which includes toxic pollutant effluent limitations established pursuant to this Section shall also contain conditions requiring the permittee to conduct additional monitoring in the manner and locations determined by the Regional Administrator (or State Director, if appropriate) for those toxic pollutants for which the toxic pollutant effluent standards have been adjusted.

**§ 129.7 Requirement and procedure for establishing a more stringent effluent limitation.**

(a) In exceptional cases (1) where the Regional Administrator (or State Director, if appropriate) determines that the ambient water criterion established in these standards is not being met or will not be met in the receiving water as a result of one or more discharges at levels allowed by these standards, and (2) where he further determines that this is resulting in or may cause or contribute to significant adverse effects on aquatic or other organisms usually or potentially present, or on human health, he may issue to an owner or operator a permit or a permit modification containing a toxic pollutant effluent limitation at a more stringent level than that required by the standard set forth in these regulations. Any such action shall be taken pursuant to the procedural provisions of 40 CFR Parts 124 and 125, as appropriate. In any proceeding in connection with such action the burden of proof and of going forward with evidence with regard to such more stringent effluent limitation shall be upon the Regional Administrator (or State Director, if appropriate) as the proponent of such more stringent effluent limitation.

Evidence in such proceeding shall include at a minimum: an analysis using data and other information to demonstrate receiving water concentrations of the specified toxic pollutant, projections of the anticipated effects of the proposed modification on such receiving water concentrations, and the hydrologic and hydrographic characteristics of the receiving waters including the occurrence of dispersion of the effluent. Detailed specifications for presenting relevant information by any interested party may be prescribed in guidance documents published from time to time, whose availability will be announced in the FEDERAL REGISTER.

(b) Any effluent limitation in an NPDES permit which a State proposes to issue which is more stringent than the toxic pollutant effluent standards promulgated by the Administrator is subject to review by the Administrator under section 402(d) of the Act. The Administrator may approve or disapprove such limitation(s) or specify another limitation(s) upon review of any record of any proceedings held in connection with the permit issuance or modification and any other evidence available to him. If he takes no action within ninety days of his receipt of the notification of the action of the permit issuing authority and any record thereof, the action of the State permit issuing authority shall be deemed to be approved.

**§ 129.8 Compliance date.**

(a) The effluent standards or prohibitions set forth herein shall be complied with not later than one year after promulgation unless an earlier date is established by the Administrator for an industrial subcategory in the promulgation of the standards or prohibitions.

(b) Toxic pollutant effluent standards or prohibitions set forth herein shall become enforceable under Sections 307(d) and 309 of the Act on the date established in subparagraph (a) of this section regardless of proceedings in connection with the issuance of any NPDES permit or application therefor, or modification or renewal thereof.

**§§ 129.9–129.99 [Reserved]**

**§ 129.100 Aldrin/Dieldrin.**

(a) *Specialized Definitions.* (1) "Aldrin/Dieldrin Manufacturer" means a manufacturer, excluding any source which is exclusively an aldrin/dieldrin formulator, who produces, prepares or processes technical aldrin or dieldrin or who uses aldrin or dieldrin as a material in the production, preparation or processing of another synthetic organic substance.

(2) "Aldrin/Dieldrin Formulator" means a person who produces, prepares or processes a formulated product comprising a mixture of either aldrin or dieldrin and inert materials or other diluents, into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et. seq.).

(3) The ambient water criterion for aldrin/dieldrin in navigable waters is 0.003 $\mu$g/l.

(b) *Aldrin/Dieldrin Manufacturer*—(1) *Applicability.* (i) These standards or prohibitions apply to:

(A) All discharges of process wastes; and

(B) All discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by aldrin/dieldrin as a result of the manufacturing process, including but not limited to:

(*1*) Stormwater and other runoff; and

(2) Water used for routine cleanup or cleanup of spills.

(ii) These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of aldrin/dieldrin; or to stormwater runoff that exceeds that from the ten year 24-hour rainfall event.

(2) *Analytical Method Acceptable.* Environmental Protection Agency method specified in 40 CFR Part 136, except that a 1-liter sample size is required to increase the analytical sensitivity.

(3) *Effluent Standard*—(i) *Existing Sources.* Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin manufacturer.

(ii) *New Sources.* Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin manufacturer.

(c) *Aldrin/Dieldrin Formulator*—(1) *Applicability.* (i) These standards or prohibitions apply to:

(A) All discharges of process wastes; and

(B) All discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by aldrin/dieldrin as a result of the formulating process, including but not limited to:

(*1*) Stormwater and other runoff; and

(2) Water used for routine cleanup or cleanup of spills.

(ii) These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of aldrin/dieldrin; or to stormwater runoff that exceeds that from the ten year 24-hour rainfall event.

(2) *Analytical Method Acceptable.* Environmental Protection Agency method specified in 40 CFR Part 136, except that a 1-liter sample size is required to increase the analytical sensitivity.

(3) *Effluent Standard—(i) Existing Sources.* Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin formulator.

(ii) *New Sources.* Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin formulator.

**§ 129.101 DDT, DDD and DDE.**

(a) *Specialized Definitions.* (1) "DDT Manufacturer" means a manufacturer, excluding any source which is exclusively a DDT formulator, who produces, prepares or processes technical DDT, or who uses DDT as a material in the production, preparation or processing of another synthetic organic substance.

(2) "DDT Formulator" means a person who produces, prepares or processes a formulated product comprising a mixture of DDT and inert materials or other diluents into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et seq.).

(3) The ambient water criterion for DDT in navigable waters is 0.001 $\mu$g/l.

(b) *DDT Manufacturer*—(1) *Applicability.* (i) These standards or prohibitions apply to:

(A) All discharges of process wastes; and

(B) All discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by DDT as a result of the manufacturing process, including but not limited to:

(*1*) Stormwater and other runoff; and

(2) Water used for routine cleanup or cleanup of spills.

(ii) These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of DDT; or to stormwater runoff that exceeds that from the ten year 24-hour rainfall event.

(2) *Analytical Method Acceptable.* Environmental Protection Agency method specified in 40 CFR Part 136, except that a 1-liter sample size is required to increase the analytical sensitivity.

(3) *Effluent Standard.* (i) *Existing Sources.* DDT is prohibited in any discharge from any DDT manufacturer.

(ii) *New Sources.* DDT is prohibited in any discharge from any DDT manufacturer.

(c) *DDT Formulator*—(1) *Applicability.* (i) These standards or prohibitions apply to:

(A) All discharges of process wastes; and

(B) All discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by DDT as a result of the formulating process, including but not limited to:

(*1*) Stormwater and other runoff; and

(2) Water used for routine cleanup or cleanup of spills.

(ii) These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of DDT; or to stormwater runoff that exceeds that from the ten year 24-hour rainfall event.

(2) *Analytical Method Acceptable.*—Environmental Protection Agency method specified in 40 CFR Part 136, except that a 1-liter sample size is required to increase the analytical sensitivity.

(3) *Effluent Standard*—(i) *Existing Sources.* DDT is prohibited in any discharge from any DDT formulator.

(ii) *New Sources.* DDT is prohibited in any discharge from any DDT formulator.

### § 129.102 Endrin.

(a) *Specialized Definitions.* (1) "Endrin Manufacturer" means a manufacturer, excluding any source which is exclusively an endrin formulator, who produces, prepares or processes technical endrin or who uses endrin as a material in the production, preparation or processing of another synthetic organic substance.

(2) "Endrin Formulator" means a person who produces, prepares or processes a formulated product comprising a mixture of endrin and inert materials or other diluents into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et. seq.).

(3) The ambient water criterion for endrin in navigable waters is 0.004 $\mu$g/l.

(b) *Endrin Manufacturer*—(1) *Applicability.* (i) These standards or prohibitions apply to:

(A) All discharges of process wastes; and

(B) All discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by endrin as a result of the manufacturing process, including but not limited to:

(*1*) Stormwater and other runoff; and

(2) Water used for routine cleanup or cleanup of spills.

(ii) These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of endrin; or to stormwater runoff that exceeds that from the ten year 24-hour rainfall event.

(2) *Analytical Method Acceptable.* Environmental Protection Agency method specified in 40 CFR Part 136.

(3) *Effluent Standard*—(i) *Existing Sources.* Discharges from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 1.5 $\mu$g/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.0003 kg/kkg of endrin produced; and shall not exceed 7.5 $\mu$g/l in a sample(s) representing any working day.

(ii) *New Sources.* Discharge from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 0.1 $\mu$g/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.00002 kg/kkg of endrin produced; and shall not exceed 0.5 $\mu$g/l in a sample(s) representing any working day.

(c) *Endrin Formulator*—(1) *Applicability.* (i) These standards or prohibitions apply to:

(A) All discharges of process wastes; and

(B) All discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by endrin as a result of the formulating process, including but not limited to:

(*1*) Stormwater and other runoff; and

(2) Water used for routine cleanup or cleanup of spills.

(ii) These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of endrin; or to stormwater runoff that exceeds that from the ten year 24-hour rainfall event.

(2) *Analytical Method Acceptable.* Environmental Protection Agency method specified in 40 CFR Part 136, except that a 1-liter sample size is required to increase the analytical sensitivity.

(3) *Effluent Standard*—(i) *Existing Sources.* Endrin is prohibited in any discharge from any endrin formulator.

(ii) *New Sources.* Endrin is prohibited in any discharge from any endrin formulator.

(d) The standards set forth in this Section shall apply to the total combined weight or concentration of endrin, excluding any associated element or compound.

### § 129.103 Toxaphene.

(a) *Specialized Definitions.* (1) "Toxaphene Manufacturer" means a manufacturer, excluding any source which is exclusively a toxaphene formulator, who produces, prepares or processes toxaphene or who uses toxaphene as a material in the production, preparation or processing of another synthetic organic substance.

(2) "Toxaphene Formulator" means a person who produces, prepares or processes a formulated product comprising a mixture of toxaphene and inert materials or other diluents into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et seq.).

(3) The ambient water criterion for toxaphene in navigable waters is 0.005 $\mu$g/l.

(b) *Toxaphene Manufacturer*—(1) *Applicability.* (i) These standards or prohibitions apply to:

(A) All discharges of process wastes; and

(B) All discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by toxaphene as a result of the manufacturing process, including but not limited to:

(*1*) Stormwater and other runoff; and

(2) Water used for routine cleanup or or cleanup of spills.

(ii) These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of toxaphene; or to stormwater runoff that exceeds that from the ten year 24-hour rainfall event.

(2) *Analytical Method Acceptable.*—Environmental Protection Agency method specified in 40 CFR Part 136.

(3) *Effluent Standard*—(i) Existing *Sources.*—Discharges from a toxaphene manufacturer shall not contain toxaphene concentrations exceeding an average per working day of 1.5 $\mu$g/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.00001 kg/kkg of toxaphene produced, and shall not exceed 7.5 $\mu$g/l in a sample(s) representing any working day.

(ii) *New Sources.*—Discharges from a toxaphene manufacturer shall not contain toxaphene concentrations exceeding an average per working day of 0.1 $\mu$g/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.0000006 kg/kkg of toxaphene produced, and shall not exceed 0.5 $\mu\mu$g/l in a sample(s) representing any working day.

(c) *Toxaphene Formulator*—(1) *Applicability.* (i) These standards or prohibitions apply to:

(A) All discharges of process wastes; and

(B) All discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by toxaphene as a result of the formulating process, including but not limited to:

(*1*) Stormwater and other runoff; and

(2) Water used for routine cleanup or cleanup of spills.

(ii) These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of toxaphene; or to stormwater runoff that

exceeds that from the ten year 24-hour rainfall event.

(2) *Analytical Method Acceptable.* Environmental Protection Agency method specified in 40 CFR Part 136, except that a 1-liter sample size is required to increase the analytical sensitivity.

(3) *Effluent Standards*—(i) *Existing Sources.* Toxaphene is prohibited in any discharge from any toxaphene formulator.

(ii) *New Sources.* Toxaphene is prohibited in any discharge from any toxaphene formulator.

(d) The standards set forth in this Section shall apply to the total combined weight or concentration of toxaphene, excluding any associated element or compound.

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THURSDAY, JUNE 10, 1976




PART IV:

# ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

■

## PRACTICES AND PROCEDURES FOR HEARINGS

Notice of Proposed Rulemaking

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

[ 36 CFR Part 1150 ]

### PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

### Notice of Proposed Rulemaking

The Architectural and Transportation Barriers Compliance Board (hereinafter referred to as A&TBCB) was established under Section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391. Section 502(d), 29 U.S.C. 792(d), provides that the A&TBCB shall hold hearings and issue orders it deems necessary to ensure compliance with the standards for buildings and facilities issued under the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended, 42 U.S.C. 4151 et. seq. The provisions of Subchapter II of Chapter 5 and Chapter 7 of Title 5, United States Code apply to the A&TBCB procedures. An order of compliance issued by the A&TBCB is a final order for purposes of judicial review. Pub. L. 93–516, 88 Stat. 1621, the Rehabilitation Act Amendments of 1974, provides that an order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with the applicable standards.

The A&TBCB is concerned that ready access to and use of buildings be effective through voluntary compliance with applicable standards. Nevertheless, the A&TBCB has received and is processing numerous complaints of alleged noncompliance. Notice is hereby given that to provide a formal system for determination of those complaints which cannot be amicably resolved to ensure accessibility by means of compliance with the required standards, the A&TBCB is proposing to issue the following regulations. Title 36 of the Code of Federal Regulations would be amended by adding a new Chapter XI, Architectural and Transportation Barriers Compliance Board, consisting at this time of the following Part 1150, Practice and Procedures for Compliance Hearings.

While these regulations relate solely to the A&TBCB practice and procedures, and notice of public procedure thereon is not required, A&TBCB recognizes its responsibility to the public and invites comments concerning the regulations. Public comments from interested parties and government agencies will be received by the A&TBCB at its offices, 330 "C" Street SW., Room 1010, Washington, D.C. 20201, on or before July 12, 1976. Comments received may be seen at the above offices during the hours of 9:00 a.m.–5:30 p.m. Monday through Friday and will be considered by the A&TBCB before final adoption of the procedures.

The A&TBCB recognizes that while these regulations will be issued as final after analysis of public comments, additional parts of Chapter XI, Part 1150, will be issued at a later date which will fully implement Section 502 of the Rehabilitation Act, as amended. This will include guidelines for voluntary compliance for agencies and programs subject to the jurisdiction of the A&TBCB.

It is therefore proposed to amend Title 36, Code of Federal Regulations, by addition of Part 1150 as set forth below.

Dated: June 4, 1976.

STANLEY B. THOMAS, Jr.,
*Chairman, Architectural and Transportation Barriers Compliance Board.*

## PART 1150—PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS


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AUTHORITY: Sec. 502, Pub. L. 93–112, 87 Stat. 391 (29 U.S.C. 792).

### Subpart A—General Information

**§ 1150.1 Purpose and application.**

(a) The purpose of the regulations in this part is to implement Section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391 29 U.S.C. 792, as amended to provide procedures for public hearings to require compliance with the standards issued pursuant to the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended 42 U.S.C. 4151 et. seq. It is the policy of the Architectural and Transportation Barriers Compliance Board to ensure maximum compliance through amicable resolution of compliance related matters.

(b) These regulations apply to all buildings designed, constructed, or altered after the effective date of a standard issued under the Architectural Barriers Act of 1968 applicable to such building.

**§ 1150.2 Definitions.**

(a) "A&TBCB" means the Architectural and Transportation Barriers Compliance Board.

(b) "Agency" means Federal department, agency or instrumentality as defined in Subchapter II and Chapter 7 of Title 5 of the United States Code or an official thereof.

(c) "Alteration" means repairing, improving, remodeling, extending, or otherwise changing a building, or part thereof.

(d) "Architectural Barriers Act" means the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended, 42 U.S.C. 4151 et seq.

(e) "Building" means any building or facility, including the site thereof, and structures appurtenant thereto, (other than (1) a privately owned residential structure and (2) any building or facility on a military installation designed and constructed primarily for use by able-bodied military personnel) the intended use of which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped persons, which building or facility is (i) to be constructed or altered by or on behalf of the United States; or (ii) to be leased in whole or in part by the United States after August 12, 1968, after construction or alteration in accordance with plans and specification of the United States; or (iii) to be financed in whole or in part by a contract, grant or loan made by the United States after August 12, 1968, if such building or facility may be subject to standards for design, construction or alteration issued under the law authorizing the grant or loan; (iv) to be constructed under authority of the National Capital Transportation Act of 1965, or Title III of the Washington,

Metropolitan Area Transit Regulation Compact.

(f) "Chairman" means the Chairman of A&TBCB.

(g) "Construction" means the construction of a new building, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings.

(h) "Day" means calendar day.

(i) "Executive Director" means the A&TBCB Executive Director.

(j) "Handicapped Individual" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment.

(k) "Judge" means hearing examiner appointed or designated by the A&TBCB pursuant to section 502(e) of the Rehabilitation Act.

(l) "PER" means Provisional Expedited Relief.

(m) "Privately Owned Residential Structure" means a residential structure not owned by a Federal agency or instrumentality, a state or political subdivision thereof, or an instrumentality of a state or of a political subdivision thereof.

(n) "Rehabilitation Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391, 29 U.S.C. 792, as amended.

(o) "Respondent" means a party answering the sitation, including PER citation.

(p) "Standard" means any standard for accessibility and usability prescribed pursuant to the Architectural Barriers Act, including but limited to ANSI 117.1, the American National Standard Institute Specification for making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped.

**§ 1150.3 Scope of rules.**

(a) These rules shall govern all compliance proceedings before the A&TBCB and judges.

(b) In the absence of a specific provision, in these rules, procedure shall be in accordance with the Administrative Procedure Act, Subchapter II of Chapter 5 and Chapter 7, of Title 5, United States Code, and the Federal Rules of Civil Procedure, in that order.

**§ 1150.4 Use of gender and number.**

(a) Words importing the singular number may extend and be applied to a plural and vice versa.

(b) Words importing the masculine gender may be applied to feminine gender.

**§ 1150.5 Suspension of rules.**

Upon notice of all parties, the chairman or the judge, with respect to matters pending before them, may modify or waive any rule in these regulations upon determination that no party will be unduly prejudiced and that the ends of justice will thereby be served.

## Subpart B—Parties

**§ 1150.11 Parties.**

(a) The term party shall include any agency, state body, or other person to whom a notice of hearing or opportunity for hearing has been mailed naming them as respondent.

(b) The Executive Director shall be the party initiating proceedings hereunder by the issuance of a citation under § 1150.42.

**§ 1150.12 Complainants.**

(a) A person submitting a written complaint alleging noncompliance with the standards issued pursuant to the Architectural Barriers Act is not a party as to a matter of course to the proceedings governed by these regulations, but may petition to intervene or to appear as an amicus curiae. Whether or not the petition to intervene or to appear as amicus curiae is granted, the complainant shall receive a copy of the final order issued by the judge and the A&TBCB.

(b) The identification of all persons submitting complaints shall be held in confidence unless such person requests otherwise in writing.

(c) All persons submitting written complaints shall be given or mailed, by certified mail, return receipt requested, a copy of these regulations.

**§ 1150.13 Intervenors.**

(a) A petition to intervene may be filed at any stage of a proceeding by persons, organizations, or agencies not party to the proceedings.

(b) The petition shall set forth the interest of the petitioner in the proceedings, show that the participation of the petitioner will assist in the determination of the issue in question, and that the appearance will not unnecessarily delay the proceedings.

(c) The judge may grant the petition to intervene to such an extent and upon such terms, including the extent to which the petitioner may introduce evidence and question witnesses as the judge shall determine.

(d) When a petition to intervene is granted, in whole or in part, the petitioner shall be deemed a party for purposes of filing and receiving copies of all documents, orders and decisions hereunder as well as participating in proceedings hereunder.

**§ 1150.14 Amicus curiae.**

(a) Any interested person or organization may file a petition to participate in a proceeding as a amicus curiae. Such petition shall be filed prior to the prehearing conference, or if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The judge may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome, and may contribute materially to the proper disposition thereof. An amicus curiae is not a party and may not introduce evidence at a hearing.

(b) An amicus curiae may submit a statement of position to the judge prior to the beginning of a hearing, and shall serve a copy on each party. The amicus curiae may submit a brief on each occasion a decision is to be made or a prior decision is subject to review. His brief shall be filed and served on each party within the time limits applicable to the party whose position he deems himself to support; or if he does not deem himself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings.

(c) When all parties have completed their initial examination of a witness, any amicus curiae may request the judge to propound specific questions to the witness. The judge, in his discretion, may grant any such request if he believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

**§ 1150.15 Appearance.**

(a) A party may appear in person or by counsel or other representative and participate fully in any proceedings. An agency, state body, or corporation may appear by any of its officers or by any employee it authorizes to appear on its behalf. Counsel must be members in good standing of the Bar of the State, Territory, or a possession of the United States or the District of Columbia or the Commonwealth of Puerto Rico.

(b) A representative of a party or amicus curiae shall be deemed to control all matters respecting the interest of such party or amicus curiae in the proceedings.

(c) Nothing contained herein shall be construed to require any representative to the be an attorney at law.

(d) Withdrawal of appearance of any representative will be effective by filing a written notice of withdrawal and by serving a copy thereof on all parties and amicus curiae.

## Subpart C—Form, Execution, Service and Filing of Documents

**§ 1150.21 Form of documents to be filed.**

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and shall show the title, if any, and address of the signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long.

**§ 1150.22 Signature of documents.**

The signature of a party, authorized officer, employee or attorney constitutes a certification that he has read the document, that to the best of his knowledge,

information, and belief there is a good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed.

**§ 1150.23 Filing and service.**

All notices by a member of the A&TBCB or A&TBCB staff, and all written motions, requests, petitions, memoranda, pleadings, exceptions, briefs, decisions, and correspondence to the judge, or an A&TBCB member or A&TBCB staff from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties and amicus curiae. Parties shall supply the original and two copies of documents, exhibits, and transcripts of testimony submitted for filing. Filings shall be made with the hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (Federal legal holidays excepted) from 9 a.m. to 5:30 p.m., Eastern Standard or Daylight Savings Time, whichever is effective in the District of Columbia at the time. Filing may be in person or by mail.

**§ 1150.24 Service—how made.**

Service of one copy shall be made on each party, and amicus curiae, by personal delivery or by certified mail, return receipt requested, properly addressed with postage prepaid. When a party or amicus curiae has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party or amicus curiae.

**§ 1150.25 Date of service.**

The date of service shall be the day when the matter is deposited in U.S. mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or the date that its attempted delivery is refused.

## Subpart D—Time

**§ 1150.31 Computation.**

In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computation.

**§ 1150.32 Extension of time or postponement.**

Requests for extension of time shall be served on all parties and amicus curiae, and should set forth the reasons for the application. Applications may be granted by the judge upon a showing of good cause by the applicant. From the designation of a judge until the issuance of his decision such requests should be addressed to him. Answers to such request, are permitted, if made promptly.

## Subpart E—Proceedings Prior to Hearings; Pleadings and Motions

**§ 1150.41 Informal resolution.**

All complaints of alleged noncompliance with the standards issued pursuant to Architectural Barriers Act shall be resolved as expeditiously and informally as possible to ensure the accessibility and usability of the building complained of. In amicably resolving complaints the A&TBCB and A&TBCB staff take such actions as may be necessary, including but not limited to, surveying and investigating buildings; monitoring compliance programs of agencies; furnishing technical assistance, including standard interpretation, to agencies, and obtaining such assurances, certifications, and plans of action from agencies as may be necessary to ensure compliance. To the extent practicable, in the course of informally resolving allegations of noncompliance, persons who may become parties to compliance proceedings, should be appraised of the alleged instances of noncompliance and afforded the opportunity to respond or submit documents with respect thereto.

**§ 1150.42 Citations.**

(a) If there appears to be a failure or threatened failure to comply with the standards issued pursuant to the Architectural Barriers Act, and if the noncompliance or threatened noncompliance cannot be corrected or resolved by informal means under § 1150.41, the Executive Director shall issue a written citation requesting such relief as is necessary to ensure compliance with the standards issued pursuant to Architectural Barriers Act, which may include the suspension or withholding of funds. The citation shall be served upon all interested parties, including the agency having custody or control of, and the agency funding by contract, grant, or loan, the allegedly noncomplying building. The citation shall contain a concise jurisdictional statement reciting the provisions of the Rehabilitation Act and Architectural Barriers Act pursuant to which the requested action may be taken as well as a short and plain basis for requesting the imposition of the sanctions. The citation shall also (1) (i) advise the agency and interested parties that a hearing concerning the matter in question has been scheduled and advise them of the time and place of hearing or (ii) fix a date, not less than fifteen (15) days after the date of the citation within which the agency or affected parties may request a hearing, and (2) contain a list of all pertinent documents including, but not limited to, contracts, grants, invitations for bids, specifications, contract or grant drawings, and correspondence, necessary for the judge to make a decision on the alleged noncompliance. The time and place of hearing fixed in the citation shall be reasonable and shall be subject to change for cause.

(b) In addition to all other forms of relief requested, the citation shall request Provisional Expedited Relief (PER) when it appears from a complaint or otherwise to the Executive Director, or it has been brought to his attention by a member of the A&TBCB or A&TBCB staff, that immediate and irreparable noncompliance with the standards issued pursuant to the Architectural Barriers Act are occurring or are about to occur. Citations requesting PER shall recite specific facts and affidavits or notarized complaint upon which the need for PER is based. Citations requesting PER shall recite that a hearing regarding the PER has been scheduled eight (8) days after receipt of the citation. Citations requesting PER may be filed without prejudice to proceedings commencing subsequently in which PER is not requested.

(c) The Executive Director shall file copies of all pertinent documents listed in the citation simultaneously with filing the citation.

**§ 1150.43 Answers.**

(a) Answers shall be filed by respondents within fifteen (15) days after receipt of a citation. The answer shall admit or deny specifically, and in detail, matters set forth in each allegation of the citation, unless the respondent is without knowledge, in which case the answer shall so state and such statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Failure to file an answer shall constitute an admission of all facts recited in the citation. Answers shall contain a list of additional pertinent documents not listed in the citation which documents, respondent believes, are necessary for the Board or the judge to make a decision in the proceedings herein. Copies of the listed documents shall be filed with the answer.

(b) Answers to citations requesting PER shall be in the form of all answers, as set forth in paragraph (a) of this section, and shall be filed within four (4) days after receipt of the citation and shall also recite in detail with affidavits or by notarized answer why the PER requested should not be granted.

(c) When a citation contains a request for relief to ensure compliance with standards issued pursuant to the Architectural Barriers Act as well as PER, an answer to the PER request shall be filed in accordance with paragraph (a) of this section.

**§ 1150.44 Amendments.**

(a) The Executive Director may amend the citation as a matter of course before an answer is filed. A respondent may amend its answer once as a matter of course, not later than five (5) days after the filing of the original answer. Other amendments of the citation or the answer shall be made only by leave of judge. An amended citation shall be answered within five (5) days of its service, or within the time for filing an answer to original notice, whichever is longer.

(b) Citations and answers in PER proceedings may not be amended prior to hearing. However, citations and answers in such proceedings may be amended at the hearing with the permission of the judge.

**§ 1150.45 Request for hearing.**

Within fifteen (15) days from service of a citation which does not fix a date for a hearing, the respondent, either in its answer in a separate paragraph thereof, or in a separate document, may request a hearing Failure of a respondent to request a hearing shall be deemed a waiver of the right to a hearing and to constitute consent to the making of a decision on the basis of such information as is available.

**§ 1150.46 Motions.**

Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally or the judge may require that they be reduced in writing and filed and served on all parties. Except as otherwise ordered by the judge, responses to a written motion or petition shall be filed within ten (10) days after the motion or petition is served. An immediate oral response may be made to an oral motion. All arguments on motions will be at the discretion of the judge.

**§ 1150.47 Disposition of motions and petitions.**

The A&TBCB or the judge may not sustain or grant a written motion or petition prior to expiration or the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response; providing, however, that prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. All motions and petitions may be ruled upon immediately after response. Motions and petitions not disposed of in separate rulings or in decisions will be deemed denied.

## Subpart F—Responsibilities and Duties of Judge

**§ 1150.51 Who presides.**

(a) A judge assigned under 5 U.S.C. 3105 or 3344 (formerly Sec. 11 of the Administrative Procedure Act) shall preside over the taking of evidence in any hearing to which these rules of procedure apply.

(b) Pending designation of a judge, the responsibilities, duties and authorities of the judge under these regulations shall be executed by the A&TBCB through the Chairman or other member of the A&TBCB designated by the Chairman.

(c) The Chairman, or other member of the A&TBCB designated by the Chairman, shall preside over proceedings before the A&TBCB.

**§ 1150.52 Designation of judge.**

The designation of the judge as presiding officer shall be in writing and may also fix the time and place of hearing. A copy of such order shall be served on all parties. After service of an order designating a judge to preside and until the judge makes his decision, motions and petitions shall be submitted to him. In the case of the death, illness disqualification or unavailability of the designated judge, another judge shall be designated to take his place.

**§ 1150.53 Authority of judge.**

The judge shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings, or, on due notice to the parties, to change the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in proceedings, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties and amicus curiae to state their position with respect to the various issues in the proceedings.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of counsel therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) Issue decisions.

(k) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

**§ 1150.54 Disqualification of judge.**

(a) A judge may withdraw from a proceeding whenever he deems himself disqualified.

(b) Any party may request the judge, at any time following his designation and before the filing of his decision, to withdraw on ground of personal bias or disqualification, by filing with him promptly upon the discovery of the alleged facts an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

(c) If, in the opinion of the judge, the affidavit referred to in paragraph (b) of this section is filed with due diligence and is sufficient on its face, the judge shall forthwith disqualify himself and withdraw from the proceeding.

(d) If the judge does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and shall proceed with the hearing, or, if the hearing has closed, he shall proceed with the issuance of his decision, and the provisions of Section 1150.102 shall thereupon apply.

## Subpart G—Prehearing Conferences and Discovery

**§ 1150.61 Prehearing conference.**

(a) At any time before a hearing, the judge, on his own motion or on motion of a party, may direct the parties or their representatives to exchange information or to participate in a prehearing conference for the purpose of considering matters which tend to simplify the issues or expedite the proceedings.

(b) The judge may issue a prehearing order which includes the agreements reached by the parties. Such order shall be served upon all parties and amicus curiae and shall be a part of the record.

**§ 1150.62 Discovery.**

(a) Parties are encouraged to engage in voluntary discovery procedures. For good cause shown under appropriate circumstances but not as a matter of course, the judge will entertain motions for permission for discovery, issue orders including orders for the taking of testimony upon oral examination or written interrogatories before an officer authorized to administer oaths, to permit service of written interrogatories upon the opposing party, to produce and permit inspection of designated documents, and to permit service upon the opposing party a request for the admission of specified facts.

(b) Motions for discovery shall be granted only to the extent and upon such terms as the judge in his discretion considers to be consistent with the objective of securing a just and inexpensive determination of the merits of the citation without unnecessary delay, and essential to the proper pursuit of that objective in the particular case.

(c) In connection with any discovery procedure, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, including limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents. If any party fails to comply with a discovery order of the judge under these rules, without an excuse or explanation satisfactory to the judge for such failure, the judge may decide the fact or issue relating to the material requested to be produced, or the subject matter of the probable testimony, in accordance with claims of the other party in interest or in accordance with the other evidence available to the judge, or make such other ruling as he determines just and proper.

## Subpart H—Hearing Procedures

**§ 1150.71 Briefs.**

The judge may require parties and amicus curiae to file written statements of position prior to the beginning of a hearing. The judge may also require the parties to submit trial briefs.

**§ 1150.72 Evidentiary purpose.**

Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved. Where it appears

from the Citation, the Answer, stipulations, or other documents in the record, that there are no matters of material fact in dispute, the judge may enter an order so finding, vacating the hearing date, if one has been set, and fixing the time for filing briefs.

**§ 1150.73 Testimony.**

(a) Formal rules of evidence shall not apply but rules or principles designed to assure production of the most probative evidence available will be applied. Testimony shall be given orally under oath or affirmation; but the judge, in his discretion, may require or permit the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing, and filed as part of the record thereof.

(b) All witnesses shall be available for cross-examination and at the discretion of the judge, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding.

(c) When testimony is taken by deposition, an opportunity shall be given, with appropriate notice, for all parties to cross-examine the witness. Objections to any testimony or evidence presented therein shall be deemed waived unless raised at the time of the deposition.

(d) Witnesses appearing before the judge shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witness appears, and the person taking a deposition shall be paid by the party at whose instance the deposition is taken.

**§ 1150.74 Exclusion of evidence.**

The judge may exclude evidence which is immaterial, irrelevant or unduly repetitious.

**§ 1150.75 Objections.**

Objections to evidence or testimony shall be timely and shall briefly state the ground.

**§ 1150.76 Exceptions.**

Exceptions to rulings of the judge are unnecessary. It is sufficient that a party, at the time the ruling of the judge is sought, makes known the action which he desires the judge to take, or his objection to an action taken, and his grounds therefor.

**§ 1150.77 Official notice.**

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

**§ 1150.78 Public document items.**

Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

**§ 1150.79 Offer of proof.**

An offer of proof made in connection with an objection taken to a ruling of the judge rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

**§ 1150.80 Appeals from ruling of judge.**

(a) Rulings of the judge may not be appealed to the A&TBCB prior to his consideration of the entire proceeding except with the consent of the judge and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the A&TBCB within such period as the judge directs.

(b) There shall be no oral argument or appearances on any appeal or any motion unless the A&TBCB directs otherwise.

**§ 1150.81 Consolidated or joint hearing.**

In cases in which the same or related facts are asserted to constitute noncompliance with standards issued pursuant to the Architectural Barriers Act, the judge may order all such related cases consolidated and may make such other orders concerning proceedings therein as will be consistent with the objective of securing a just and inexpensive determination of the case without unnecessary delay.

**§ 1150.82 PER proceedings.**

(a) In proceedings in which a citation, or part thereof, seeking PER has been filed, the judge shall make necessary rulings with respect to time for filing of pleadings, the conduct of the hearing and with respect to all other matters, and shall do all other things necessary to complete the proceeding in the minimum time consistent with the objective of securing an expeditious, just and inexpensive determination of the case. The times for actions set forth in these rules shall be followed unless otherwise ordered by the judge.

(b) Orders of PER shall be on such terms and conditions as the judge directs, consistent with preserving the rights of all parties so as to permit the timely processing of the citation, or part thereof, not requesting PER, as well as the provisions and objectives of the Architectural Barriers Act and the Rehabilitation Act. In issuing an order for PER the judge shall make specific findings of fact and conclusions of law that the Executive Director or another party, or amicus curiae, has shown:

(i) Likelihood of succeeding on the merits of a proceeding; and

(ii) That the threatened injury or violation outweighs the threatened harm to the respondent if PER is granted; and

(iii) Granting PER is in the public interest.

(c) The judge may order dismissed any citation or part thereof seeking PER when the judge finds that the timely processing of a citation not requesting PER will adequately ensure the objective of Section 502 of the Rehabilitation Act and that immediate and irreparable noncompliance with the standards issued pursuant to the Architectural Barriers Act are not occurring or about to occur.

## Subpart I—The Record

**§ 1150.91 Record for decision.**

The transcript of testimony, exhibits, and all papers, documents and requests filed in the proceeding, including briefs and proposed findings and conclusions, shall constitute the record for decision.

**§ 1150.92 Official transcript.**

The A&TBCB will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith, shall be filed with the judge. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the A&TBCB and the reporter. Upon notice to all parties, the judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

## Subpart J—Posthearing Procedures; Decisions

**§ 1150.101 Posthearing briefs; proposed findings.**

(a) The judge shall fix the terms, including time for filing post-hearing statements of position or briefs, which may contain proposed findings of fact and conclusions of law. The judge may fix a reasonable time for such filing but such period shall not exceed thirty (30) days from the receipt by the party of the transcript of the hearing:

(b) No briefs or statements shall be required in proceeding seeking Provisional Expedited Relief (PER) unless specifically ordered by the judge.

**§ 1150.102 Decision.**

(a) Within twenty (20) days after the filing of briefs, or proposed findings, or if no briefs or proposed findings are

filed within twenty (20) days after the close of the hearing, the judge shall issue a decision which decision shall state findings of fact, conclusions of law, and the reasons therefor, upon all material issues of fact or law presented on the record, and may recommend action be taken. The decision shall contain such terms, conditions and other provisions as are consistent with, and will effectuate the purposes of the Architectural Barriers Act and the Rehabilitation Act, and may include provision for the suspension or withholding of Federal funds with respect to any building found not to be in compliance with the standards issued pursuant to the Architectural Barriers Act.

(b) In proceedings seeking Provisional Expedited Relief (PER) the decision shall be made within three (3) days after the hearing and may be given orally at the close of the hearing.

(c) The findings, conclusion and decision shall be served on all parties and amicus curiae to the proceedings.

**§ 1150.103 Exceptions to decision.**

(a) Within eight (8) days after receipt of the judge's decision, any party may appeal to the A&TBCB by submitting exceptions to the decision stating reasons therefor with the Chairman. These exceptions shall be responded to by other parties within five (5) days of the receipt by said parties.

(b) In proceedings seeking Provisional Expedited Relief (PER), all appeals and exceptions to the decision shall be filed within two (2) days after receipt of the decision, if written, or two (2) days after announcement of judge's decision if oral. The exceptions shall be responded to by other parties within two (2) days of the receipt by said parties.

**§ 1150.104 Record for final A&TBCB decision.**

The record for the A&TBCB's final decision shall consist of the record for the decision, the rulings, and decision of the judge, and the exceptions and briefs filed subsequent to the judge's decision.

**§ 1150.105 Final A&TBCB decision.**

(a) If no appeal and exceptions to the decision of the judge are filed within the period specified in § 1150.103, such decision shall become the final decision of the A&TBCB under Section 502 of the Rehabilitation Act.

(b) Upon the filing of an appeal and exceptions of the judge's decision, the A&TBCB shall review the judge's decision and issue its own decision thereon, which shall constitute the final decision of the A&TBCB under section 502 of the Rehabilitation Act.

(c) The decisions of the A&TBCB shall contain findings of fact, conclusions of law, and the reasons therefor. The decision of the A&TBCB shall contain such terms, conditions, and other provisions as are consistent with, and will effectuate the purposes of the Architectural Barriers Act and the Rehabilitation Act, and may include provision for the suspension or withholding of Federal funds with respect to any building found not to be in compliance with the standards issued pursuant to the Architectural Barriers Act.

(d) The decision of the A&TBCB may affirm, modify, set aside, or remand to the judge, in whole or in part, the recommended findings, conclusions and decision of the judge, and shall be based upon the record for decision.

(e) All final decisions shall be promptly served on all parties and amicus curiae.

**§ 1150.106 Judicial review.**

Action taken pursuant to Section 502 of the Rehabilitation Act is subject to judicial review as provided therein. A final order of compliance affecting any Federal department, agency or instrumentality of the United States shall be final and binding on such department, agency or instrumentality.

**Subpart K—Miscellaneous Provisions**

**§ 1150.111 Ex parte communications; conflict of interests.**

(a) No person having an interest in such case shall make or cause to be made an ex parte communication to the judge or the A&TBCB with respect to such case, unless all parties and amicus curiae, to the case are given timely and adequate notice of such advice, communication, or consultation, and reasonable opportunity to respond.

(b) No member of the A&TBCB shall participate in any decision of the A&TBCB concerning a building in any proceeding to which such member's agency is a party.

**§ 1150.112 Post order proceedings.**

(a) Any party adversely affected by an order issued by a judge or the A&TBCB may make a motion to the judge or the A&TBCB, whichever issued the order, to have such order vacated upon a showing that the building complies with the standards issued pursuant to the Architectural Barriers Act.

(b) Notice of motion and copies of all pleadings shall be served on all parties and amicus curiae, to the original proceeding that the moving party seeks to vacate was issued. Responses to the motion to vacate shall be filed within ten (10) days after receipt of the motion unless the judge or the A&TBCB for good cause shown grants additional time to respond.

(c) Oral argument on the motion may be ordered by the judge under such terms as he may direct, consistent with the objective of securing a prompt, just, and inexpensive determination of the motion.

(d) Within ten (10) days after receipt of all answers to the motion, the judge shall issue his decision in accordance with § 1150.102.

(e) The judge's decision shall be subject to finality and reviewable by the A&TBCB in accordance with § 1150.105.

(f) Exceptions to the decision on the motion to vacate shall be filed within three (3) days after receipt of the judge's decision.

(g) By service of an order on all parties, and amicus curiae, the A&TBCB may remand motions to vacate filed with the A&TBCB to the judge.

(h) Decisions of the judge not appealed to the A&TBCB for decision under § 1150.105 shall be considered decisions of the judge for purposes of this section.

**§ 1150.113 Amicable resolution.**

(a) Amicable resolution is encouraged at any stage of proceedings where such resolution is consistent with the provisions and objectives of the Architectural Barriers Act and Rehabilitation Act.

(b) Agreements to amicably resolve pending proceedings shall be submitted by the parties and shall be accompanied by an appropriate proposed order.

(c) The Executive Director shall be authorized to resolve any proceeding on behalf of the A&TBCB unless otherwise specifically directed by the A&TBCB and may file appropriate stipulations or notices of discontinuance.

**§ 1150.114 Effect of partial invalidity.**

If any section, subsection, paragraph, sentence, clause or phrase of these regulations shall be declared invalid for any reason whatever, the remaining portions of these regulations that are severable from the invalid part shall remain in full force and effect. If a part of these regulations is invalid in one or more of its applications, the part shall remain in effect in all valid applications that are severable from the invalid applications.

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federal register

THURSDAY, JUNE 10, 1976




PART V:

# DEPARTMENT OF COMMERCE

## Bureau of Economic Analysis

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# FOREIGN INVESTMENT AND RECEIPTS AND PAYMENTS OF ROYALTIES AND FEES

### Reporting Requirements

Title 15—Commerce and Foreign Trade

CHAPTER VIII—BUREAU OF ECONOMIC ANALYSIS, DEPARTMENT OF COMMERCE

PART 803—REPORTS ON FOREIGN INVESTMENT AND ON INTERNATIONAL RECEIPTS AND PAYMENTS OF ROYALTIES AND FEES

### Reporting Requirements

On February 24, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 8060) changing the reporting requirements of 15 CFR, Part 803, pertaining to certain foreign business enterprises owned by U.S. persons and U.S. business enterprises owned by foreign persons. Interested persons were given until March 25, 1976, to submit written comments, suggestions, or objections. No comments were received concerning the proposed changes, which are hereby adopted. It should be noted that, in conjunction with their adoption, forms BE–578I and BE–606I for insurance companies and form BE–35 for motion picture companies are hereby rescinded. Reporters heretofore required to file these reports will now report quarterly on forms BE–577, BE–578, BE–605, or BE–606 as appropriate (see sections 803.1(a)(5), 803.1(a)(6), and 803.1(b)(3)).

The amended reporting requirements do not fall within the criteria set forth in the Department Administrative Order relating to the Inflationary Impact Statement required by Office of Management and Budget Circular No. A–17.

In addition to adoption of the proposed changes contained in the February 24, 1976 notice, pursuant to recent Office of Management and Budget guidelines to executive agencies concerning a reduction in reporting burden, we are hereby raising the exemption level concerning reporting U.S. direct investment abroad on forms BE–577, BE–577A, BE–577S, BE–578, and BE–578B. The exemption level for individual foreign subsidiaries, affiliates, or branches required to be reported is being raised from $25,000 to $500,000. (See section 803.4(a).)

The data reported for these small affiliates has become relatively insignificant and its absence will not effect the universe estimates for the various data series on U.S. direct investment abroad prepared by this Bureau.

Certain nonsubstantive language changes are also made herein. One is to reflect organizational changes involving the establishment of the International Investment Division within the Bureau of Economic Analysis. The others relate to report form BE–93 "International receipts and payments of royalties and fees," primarily a change in the title to "International transactions in royalties, licensing fees, film rentals, management fees; etc., with unaffiliated foreign residents" in order to more accurately reflect the coverage of the form.

Because of the change in the title of form BE–93 concerning royalties and fees, the title of Part 803 is being changed to "Reports on Foreign Investment and on International Transactions in Royalties and Fees."

In consideration of the above and pursuant to the authority contained in title 22, United States Code, section 286(f) and Executive Orders 10033 and 11269 the proposed reporting requirements are hereby adopted effective January 1, 1976. After giving effect to the proposed changes and the other changes detailed above, 15 CFR, Part 803, reads as set forth below.

Dated: June 2, 1976.

GEORGE JASZI,
*Director,*
*Bureau of Economic Analysis.*

## PART 803—REPORTS ON FOREIGN INVESTMENT AND ON INTERNATIONAL TRANSACTIONS IN ROYALTIES AND FEES

GENERAL INSTRUCTIONS

Sec.


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AUTHORITY: R.S. 161; 5 U.S.C. 301. Interpret or apply sec. 8, 59 Stat. 515; 22 U.S.C. 286f, E.O. 10033, 14 F.R. 561, 3 CFR, 1949 Supp.

SOURCE: 27 F.R. 3846, Apr. 21, 1962, and at 40 FR 21705, May 19, 1975.

### General Instructions

**§ 803.1 Who must report.**

(a) *United States business investments abroad*—(1) *Basic requirement.* A report is required from every corporation, partnership, individual, or any other person or closely related group of persons subject to the jurisdiction of the United States and ordinarily residing within the United States having:

(i) Ownership of 25 percent or more of the voting stock of foreign corporations, either directly or together with domestic or foreign affiliates (Forms BE–577 and BE–577S). See § 803.2(a)(1) for further detail.

(ii) Ownership of at least 10 percent, but less than 25 percent, of the voting stock of foreign corporations, or the equivalent interest in an unincorporated foreign enterprise, held either directly or together with domestic affiliates (Form BE–577A). See § 803.2(a)(1) for further detail.

(iii) Unincorporated foreign branches, or other direct foreign operations conducted by a United States incorporated enterprise or other business organization in its own name in a foreign country. This includes mining claims, oil concessions, exploration and development activities or other property held by United States persons directly or jointly with others (Form BE–578). See § 803.2(a)(1) for further detail.

(2) *Estates and trusts.* Direct foreign investments held by a domestic estate or trust, i.e., an estate or trust created under the laws of the United States or any subdivision thereof, shall be reported by the fiduciary and not by a beneficiary. Such property must be reported whether or not any beneficiary is subject to the laws of the United States or any subdivision thereof.

(3) *Persons beneficially interested in property.* If direct foreign investments beneficially owned by a person subject to the jurisdiction of the United States were held by or in the name of another, only the person having the beneficial interest shall report, except as specifically provided above regarding domestic estates and trusts.

(4) *More than one person owning an interest in the same foreign organization.* Each owner is required to report if the aggregate ownership of the affiliated persons in the foreign organization totals 25 percent or more of the voting securities. However, combined reports may be filed to cover the transactions of more than one owner. Where combined reports are filed, all owners other than the reporter(s) filing the full report remain liable for the report.

(5) *Insurance companies.* Reports for foreign branches or subsidiaries are required on Form BE–577 or BE–578 as applicable.

(6) *Motion picture companies.* United States producers or distributors of motion pictures operating in foreign countries through subsidiaries, affiliates or branches, must file quarterly reports on Form BE–577 or BE–578 as applicable. Forms BE–577S and BE–577A must be filed annually, if applicable.

(b) *Foreign business investment in the United States*—(1) *Basic requirement.* A report is required to be filed with respect to every business enterprise subject to the jurisdiction of the United States in which foreign persons, either as individuals or as affiliates hold a 10 percent or more ownership interest, or which is owned in a maner indicated in paragraph (b)(2) of this section directly or indirectly by a foreign person or persons. Such business enterprises shall include, but not be limited to, corporations, partnerships, investments in real property, leaseholds, estates, trusts, and sole proprietorships or other forms of outright individual ownership.

(2) *Foreign beneficial interest.* If the foreign-owned interest in a United States business enterprise, including commercial real property, is held, exercised, or administered by a United States estate, trust (including irrevocable trusts), nominee, agent, representative, custodian, or other intermediary of the foreign beneficial owners, such intermediary shall be responsible for reporting for the business enterprise the required information on Form BE–605, BE–606, BE–606B, or BE–607, or shall instruct the United States business enterprise in question to submit the required information. This does not relieve the United States business enterprise of responsibility for reporting if such business enter-

prise has knowledge of the direct or indirect foreign-owned interest, but only one report should be filed for each such enterprise. For the purposes of this report, accounts or transactions of a United States business enterprise with a United States estate, trust, nominee, or other intermediary of foreign beneficial owners shall be considered as accounts or transactions with such beneficial owners.

(3) *Insurance companies.* Reports for U.S. branches or subsidiaries of foreign insurance companies are required on Form BE–605 or BE–606 as applicable.

(4) *Consolidated reports.* If a reporter held a 10 percent or more ownership interest in other United States enterprises engaged in the same type of business and is required to report, the information requested in the reporting forms may be consolidated for such reporter and enterprises, provided all accounts are fully consolidated. A list of the enterprises included in the consolidations must be provided.

(c) *International transactions in royalties, licensing fees, film rentals, management fees, etc., with unaffiliated foreign residents.* United States individuals and firms who have entered into agreements with residents or governments of foreign countries to sell or buy outright or provide or be provided with the use of intangible assets or rights such as patents, techniques, processes, formulae, designs, trademarks, copyrights, franchises, manufacturing rights, film rentals, and other similar intangible property or rights shall report on Form BE–93.

NOTE: Oil royalties and other natural resources (mining) royalties are not reportable on this form.

**§ 803.2 Forms to be used and frequency of reports.**

(a) *Each reporter is required to submit reports on the following forms, as applicable.* (1) United States direct investments abroad:

*Form BE–577.* One Form BE–577 is to be filed quarterly for each foreign corporation directly owned by the reporter and/or its domestic and foreign affiliates to the extent of at least 25 percent of total outstanding voting stock. Where more than one domestic affiliate has transactions with, or interests in, the same foreign corporation, consolidated reports should be filed; consolidated reports may also be filed where several foreign subsidiaries operate in the same country and industry. Reports are also required for direct transactions with foreign enterprises in which 25 percent or more of the voting stock is held through primary foreign enterprises.

*Form BE–578.* One Form BE–578 is to be filed quarterly for each foreign branch and other direct foreign operations of American reporters, including mining claims, oil concessions held directly or jointly with others and other property such as real estate but excluding branches of banks which are reportable on Form BE–578B. Separate reports should be filed for each foreign branch. Where a reporter, or several affiliated American corporations, has (or have) branches operating in the same country, or a joint interest in one or more branches, consolidated reports may be filed.

*Form BE–578B.* One Form BE–578B is to be filed quarterly for each foreign branch of a United States banking institution. Separate reports should be filed for each foreign branch; consolidated reports may however be filed where a United States bank has several branches operating in the same country.

*Form BE–577A.* One Form BE–577A is to be filed annually covering the foreign organizations in which the reporter and its domestic affiliates own in excess of 10 percent, but less than 25 percent, of voting stock, or equivalent ownership in unincorporated foreign enterprises.

*Form BE–577S.* Reports covering transactions between primary and secondary foreign corporations (see § 803.6(a) for definitions) are to be filed on an annual basis. Separate reports should be filed for each secondary foreign corporation owned through a primary foreign corporation and its foreign affiliates for which the United States equity amounts to 25 percent or more of its voting securities. However, a reportable interest is deemed to exist only if the United States parent owns 50 percent or more of the voting stock of the primary foreign corporation and it in turn owns at least 50 percent of the voting stock of the secondary foreign organization. Transactions of domestic affiliated companies directly with such secondary foreign corporations should be treated as primary relationships, and are reportable on Form BE–577 on a quarterly basis. Combined reports may be filed where several secondary foreign corporations operating in the same country are owned by the same primary foreign corporation. (See also § 803.6(a)(2)).

(2) Foreign direct investments in the United States.

*Form BE–605.* One Form BE–605 is to be filed quarterly for each United States corporation 10 percent or more of whose voting stock is owned directly or indirectly by a foreign person(s) or organization(s) and its United States or foreign affiliates.

*Form BE–606.* One Form BE–606 is to be filed quarterly for each United States branch of a foreign business organization, or for leaseholds, real property or other United States unincorporated business property owned directly by a foreign person or organization but excluding branch operations in the United States of foreign banks.

*Form BE–606B.* One Form BE–606B is to be filed quarterly for each United States branch of a foreign banking institution. Where a foreign bank has more than one United States branch, consolidated reports may be filed.

*Form BE–607.* One Form BE–607 is to be filed for (i) each U.S. business enterprise newly established or acquired by a foreign person to the extent of 10 percent or more of the voting securities in a U.S. corporation or of other ownership equities in other types of U.S. organizations; (ii) an existing U.S. reporter which has not previously filed a form containing similar information (such as the BE–12) with BEA; and (i) an existing U.S. reporter whose industrial orientation has changed so that previous reports do not accurately reflect the current situation.

(3) International transactions in royalties, licensing fees, film rentals, management fees, etc., with unaffiliated foreign residents.

*Form BE–93.* One Form BE–93 is to be filed annually by each United States person or firm receiving from unaffiliated foreigners, or paying to unaffiliated foreigners, royalties, licensing fees, film rentals, etc., arising from the use, purchase or sale of intangible assets or rights.

(b) *Frequency of reports.* Reports on Forms BE–577S, BE–577A and BE–93 must be filed annually beginning with a report covering the calendar or fiscal year 1961; reports on Forms BE–577, BE–578, BE–578B, BE–605, BE–606 and BE–606B must be filed quarterly beginning with a report for the first calendar or fiscal quarter of 1962; Form BE–607 is to be filed as required under § 803.2 (a)(2).

**§ 803.3 Reporting by banks.**

*United States banks, including agencies of foreign banks, reporting on Forms BE–577, 577A, 577S, 578B, 605 or 606B.* In order to avoid duplication of claims or liabilities reported on Treasury Foreign Exchange Forms B–1 and B–2, intercompany or branch accounts reported on the Commerce forms listed above should exclude accounts with or investments in foreign branches or subsidiaries of accounts with a foreign parent organization and its affiliates, to the extent they are included in the Treasury foreign exchange forms. However, data covering earnings, income, fees or other charges remitted or credited, or permanent investments not includible in the Treasury forms, should be reflected in the Commerce forms.

**§ 803.4 Exemptions.**

(a) *United States direct investments abroad*—(1) *Exemption based on value of property.* A reporter whose investment in foreign countries, at any time during the reporting period, exceeds an aggregate value of $2,000,000 based on the value of holdings of securities, equity in surplus accounts, and intercompany indebtedness or net branch investment in foreign countries, unless otherwise exempt from reporting, is required to report. Value is to be determined by the book value as carried on the books of the foreign organization converted into United States dollars. Reports for individual foreign subsidiaries, affiliates, or branches (other than banks) which are inactive, or have a book value which at no time during the reporting period exceeds $500,000, can be omitted with a note to that effect. For foreign branches of banks, reports are required if either (i) the book value exceeds $500,000 or (ii) the total assets exceed $2,000,000.

(2) Certain persons exempted regardless of the amount or kind of property. Report need not be made by any person who is within any of the following categories.

(i) Members of the Armed Forces of the United States serving outside continental United States;

(ii) Citizens of the United States who permanently reside in a foreign country;

(iii) Officers or employees of foreign governments and members of the immediate families of such persons, provided they are not citizens of the United States;

(iv) Religious bodies, charitable organizations and other nonprofit organizations, except for the interests of such groups in foreign organizations conducting business for profit.

(b) *Foreign direct investment in the United States*—(1) *Exemption based on value.* If the value of a foreign-owned U.S. business organization exceeds $2,000,000 at any time during the reporting period, the business organization is required to report. Otherwise, the business organization (other than a U.S. branch or agency of a foreign bank) is not required to report. The value is to be determined by the book value of the foreign owner's holdings in the securities, surplus accounts, and liability accounts of the reporter. For banks, reports are required if total assets exceed $3,000,000.

(2) *Certain property exempted.* Reports are not required for foreign-owned assets in the United States not employed in connection with a United States business enterprise controlled abroad. Assets of religious bodies, charitable organizations or other non-profit organizations are exempt from reporting, except for the interest of such groups in United States enterprises primarily conducting business for profit. Real or personal property acquired for personal use or occupancy by a foreign owner is exempt from reporting. However, interests in real property in the United States acquired for business purposes by a foreign owner must be reported, except as otherwise exempted by this section.

(c) *International transactions in royalties, licensing fees, film rentals, management fees, etc., with unaffiliated foreign residents.* Reports on Form BE–93 are not required if the respondent's annual foreign receipts and payments, combined, of the types covered by the form, are less than $25,000 in the year covered by the report.

**§ 803.5 General definitions.**

For the purpose of these reports, the following definitions are prescribed:

(a) *Person.* "Person" shall include an individual, partnership, association, corporation, estate or trust or other organization.

(b) *Person subject to the jurisdiction of the United States.* (1) Any person ordinarily residing in the United States.

(2) Any corporation or other organization created or organized under the laws of the United States or any State, territory, district, or possession thereof.

(3) Any other resident of the United States including branches of foreign organizations, real property, leaseholds, sole proprietorships and partnerships.

(c) *United States.* United States shall mean the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(d) *Foreign.* Foreign shall mean subject to the jurisdiction of a country other than the United States, and when applied to persons shall also mean not ordinarily residing within the United States.

(e) *Affiliates.* (1) Any group of persons who ordinarily exercise their voting rights in a business organization as a unit.

(2) In relation to any corporation or other organization issuing stock or similar securities, any person who, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities thereof.

(3) As to any other organization, any person who owns or controls 10 percent or more of the comparable ownership rights therein.

Any corporation or other business organization of which a person was an affiliate also shall be deemed to be affiliates of each other.

(f) *Control or controlling interest.* Control or controlling interest shall mean, for the statistical purposes of these reports, the direct ownership and/or indirect ownership through intermediaries or affiliates of 25 percent or more of the voting securities of a corporation or of other ownership equities in other types of organizations. Indirect control should be deemed to exist only if the United States parent owns 50 percent or more of the voting stock of the primary foreign corporation and it in turn owns at least 50 percent of the voting stock of the secondary foreign corporation.

(g) *Parent.* Parent shall mean any person or affiliated group of persons directly owning 10 percent or more of the voting securities of a corporation or of other ownership equities in other types of organizations. In some cases, there may be more than one parent.

**§ 803.6 Specific definitions.**

(a) *Terms relating to the reporting of United States direct investments abroad.* (1) Primary foreign organizations shall include the following organizations located in or under the jurisdiction of a foreign country:

(i) Any foreign corporation of which—

(A) The reporting organization owns 25 percent or more of the voting securities, or

(B) The reporting organization owns less than 25 percent of the voting securities but affiliates, either domestic or foreign, or the reporting organization own additional voting securities which when added to the amount owned by the reporting organization total 25 percent or more, or

(C) The reporting organization owns none of the voting securities but does own bonds, notes, or other certificates of indebtedness or has direct dealings by exchange of merchandise or rendering services, and 25 percent or more of the voting securities are owned by affiliates (domestic or foreign) of the reporting organization.

(ii) Any partnership in which a person subject to the jurisdiction of the United States is one of the partners, whether general, special, limited, or otherwise.

(iii) Branch: The interest of any person subject to the jurisdiction of the United States in property in any foreign country allocated to or held in the name or for the use of any branch, depot, or office outside of the United States maintained by such person for the transaction of any of his business. Foreign operations conducted by United States corporations in their own names and not through foreign incorporated companies are to be reported as branch operations.

(iv) Any business enterprise or real property owned outright by a resident of the United States.

(2) "Secondary foreign organization" shall include the following organizations:

(i) A foreign organization allied with the reporter through the ownership of at least 50 percent of its voting securities or other certificates of ownership by a primary foreign organization, which in turn is owned by the reporting organization to the extent of at least 50 percent of its voting stock, giving the U.S. reporter an ownership of at least 25 percent of the secondary foreign organization.

(ii) Branches of primary foreign organizations located in countries other than the primary organization have to be reported separately. However, branches or subsidiaries of a primary foreign organization located in the same country and engaged in the same type of business as the primary organization may be combined and one report submitted covering the activities of all of these organizations. The report must be a consolidated report showing the total activities of all organizations and not a report of the primary organization showing only the investment of the primary in the secondary organizations. Provide a list of all organizations included in such consolidations.

(3) "Associated" foreign organization: The ownership of at least 10 percent but less than 25 percent of the voting securities of a corporation, or an equivalent interest in an unincorporated foreign organization, held directly by the reporter and its United States affiliates, shall constitute association with that organization for the purposes of these reports. Note that separate reports are required for each "associated foreign organization." (When the ownership of the foreign organization is 25 percent or more, either entirely by the reporter or in conjunction with affiliates, the foreign organization must be reported on Form BE–577.)

(b) *Terms relating to the reporting of foreign direct investment in the United States.* (1) "Branch" shall mean an unincorporated business enterprise subject to the jurisdiction of the United States controlled by a foreign person or organization, including all assets or liabilities connected with the operations of such a branch.

(2) "Reporter" shall mean the business enterprise for which a report is required. If the enterprise is in the nature of a leasehold or real property not identifiable by name, the report may be filed on behalf of the reporter by an

agent or representative of the foreign beneficial owner or by such owner.

**§ 803.7 Estimates.**

Every question on the reporting forms which a reported is required to use in rendering his report must be answered. If the information is not available as specified in the form, a reasonable estimate should be entered, labeled as such. If there is no basis for such an estimate, state, "unknown" with an appropriate explanation. However, if and when the information becomes available, a supplementary report must be filed promptly with a full explanation.

**§ 803.8 Space not needed.**

Space not needed or inapplicable for supplying requested information should be left entirely bank. When there is nothing to report under any question state "no" or "none."

**§ 803.9 Special filing procedures.**

When data specified on the reporting forms are not available to the reporter, or when consolidation beyond that specifically provided for above would reduce reporting burden without loss of significant information, the reporter may apply to the International Investment Division of the Bureau of Economic Analysis, United States Department of Commerce, for consideration of the specific problem concerning all the forms except Form BE–93. Problems concerning Form BE–93 should be addressed to the Balance of Payments Division, of the Bureau of Economic Analysis.

**§ 803.10 Number of reports.**

Only the original report should be filed.

**§ 803.11 Time and place of filing reports.**

Reports on Forms BE–577, BE–578, BE–578B, BE–605, BE–606 and BE–606B shall be filed on a quarterly basis within 30 days of the close of the calendar or fiscal period used by the reporter except for the final quarter of the calendar or fiscal year when reports may be filed within 45 days. Reports on Form BE–577S, BE–577A, and BE–93 shall be filed on an annual basis within 90 days of the close of the calendar or fiscal year. Form BE–607 should be filed along with the related form which the U.S. reporter is required to file.

All reports except Form BE–93 should be sent to the Department of Commerce, Bureau of Economic Analysis, BE–50, Washington, D.C. 20230. Form BE–93 should be sent to the Department of Commerce, Bureau of Economic Analysis, BE–58, Washington, D.C. 20230. If additional time is needed to prepare the reports, a request for an extension of time should be addressed to the appropriate office listed above.

**§ 803.12 Information regarding preparation of reports.**

Anyone desiring information concerning these reports, or copies of forms, except form BE–93, may apply directly to the United States Department of Commerce, Bureau of Economic Analysis, BE–50, Washington, D.C. 20230. For form BE–93, application should be to the United States Department of Commerce, Bureau of Economic Analysis, BE–58, Washington, D.C. 20230. Each reporting form contains the specific instructions needed for completion.

[FR Doc.76–16874 Filed 6–9–76;8:45 am]

federal register

THURSDAY, JUNE 10, 1976




PART VI:

# DEPARTMENT OF THE INTERIOR

## Mining Enforcement and Safety Administration

■

# METAL AND NONMETALLIC MINES

## Miscellaneous Mandatory Health and Safety Standards

## Title 30—Mineral Resources

## CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

### SUBCHAPTER N—METAL AND NONMETALLIC MINE SAFETY

## PART 55—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC OPEN PIT MINES

### Miscellaneous Amendments

Pursuant to the authority vested in the Secretary of the Interior under section 6 of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725) to develop, revise, and promulgate health and safety standards for metal and nonmetallic mines, a notice of proposed rulemaking was published on Thursday, September 25, 1975, in Part III of the FEDERAL REGISTER (40 FR 44272–44275) to amend Part 55, Subchapter N, Chapter I, Title 30, Code of Federal Regulations by revising certain existing standards, by revoking certain standards, by revising certain advisory standards to make them mandatory, and by adding new mandatory standards. Each of the standards and actions contained in the notice was developed or revised after consultation with the Federal Metal and Nonmetal Mine Safety Advisory Committee appointed pursuant to section 7 of the Act (30 U.S.C. 726).

The notice further provided that each proposed standard which was to be a mandatory standard was designated by the word "Mandatory" at the beginning of the standard and if the mandatory standard had been recommended by the Federal Metal and Nonmetal Mine Safety Advisory Committee, the standard is preceded by the word "Mandatory" and the letters "MNMSAC" in this manner "Mandatory. MNMSAC _____."

Subject to the provisions of subsection (e) of section 6 (30 U.S.C. 725(e)) and in accordance with the provisions of subsection (d) of section 6 of the Act (30 U.S.C. 725(d)), on or before the last day of the period fixed for the submission of written data, views, or arguments, any person who may be adversely affected by a proposed health or safety standard which was designated as a mandatory standard under subsection (b) and (c) of section 6 of the Act (30 U.S.C. 725 (b) and (c)) and which had not been recommended as a mandatory standard by the Federal Metal and Nonmetal Mine Safety Advisory Committee, was afforded an opportunity to file with the Secretary written objections stating the grounds for such objections and requesting a public hearing subject to the provisions of the Administrative Procedure Act (5 U.S.C. 556, 557) on such objections.

Pursuant to the provisions of subsection (e) of section 6 of the Act proposed mandatory standards which have been recommended by the Federal Metal and Nonmetal Mine Safety Advisory Committee are not subject to a public hearing.

Interested persons were requested to submit written data, views, arguments, and objections, including a request for a public hearing, to the Administrator, Mining Enforcement and Safety Administration, Department of the Interior, on or before November 6, 1975. By a notice published in the FEDERAL REGISTER on Tuesday, November 4, 1975 (40 FR 51202) the period of time for the submission and filing of comments, objections and requests for public hearing was extended to and including Friday, December 5, 1975.

Written comments, data, views, arguments, suggestions, objections and requests for public hearing on proposed standards subject to a public hearing were timely received. In some instances requests for a public hearing were made on proposed standards which had been recommended to be mandatory by the Advisory Committee. The requests for public hearing made on standards which are not subject to a public hearing are denied.

The standards which are promulgated below are proposed standards which were not subject to a public hearing, or standards on which no comments were received. Pursuant to section 6(d) of the Act a notice, specifying proposed mandatory standards subject to a public hearing and to which objections and the grounds for such objections have been timely filed, has been or will be published in the FEDERAL REGISTER and a hearing held thereon at a time and place specified in such notice.

The comments, views, and suggestions which were received have been fully and carefully considered. Action is being withheld at this time on a number of proposed standards and proposed revocation of standards which are not subject to a public hearing, particularly those with respect to explosives, because of the interrelation with proposed standards on which hearings have been requested and on which hearings are to be held. However, there are some explosives standards which are being promulgated at this time which are not related to requests for hearing or which will not be affected by a hearing. In consideration of comments and suggestions received some revisions have been made in standards as proposed and recommended to be mandatory by the Advisory Committee. Standard 55.6–93 has been revised for clarity and intent to provide that where there is an obstruction in a borehole the obstruction shall be cleared before the hole is charged. In standard 55.9–49 the requirement of a red light or red flag on loads projecting from the sides or rear of vehicles has been revised to require a warning light or warning flag without specifying the color. Standard 55.9–66 has been revised to permit the use of a cable to move equipment on a different track.

Part 55, Subchapter N, Chapter I, Title 30, Code of Federal Regulations is amended as set forth below.

Effective date: The amendments, revisions, and revocation of standards shall be effective on July 15, 1976.

Dated: June 4, 1976.

WILLIAM L. FISHER,
*Assistant Secretary of the Interior.*

Part 55, Subchapter N, Chapter I, Title 30, Code of Federal Regulations is amended and revised as follows:

**§ 55.4 [Amended]**

1. Advisory standard 55.4–24 is made mandatory and revised to read as follows:

55.4–24 Mandatory. Fire extinguishers and fire suppression devices shall be:

(a) Of the appropriate type for the particular fire hazard involved.

(b) Adequate in number and size for the particular fire hazard involved.

(c) Replaced with a fully charged extinguisher or device, or recharged immediately, after any discharge is made from the extinguisher or device.

(d) Inspected, tested, and maintained at regular intervals according to the manufacturer's recommendations.

(e) Approved by the Underwriter's Laboratories, Inc., or other competent testing agency acceptable to the Mining Enforcement and Safety Administration.

2. Advisory standard 55.4–27 is renumbered 55.4–39 and standard number 55.4–27 is reserved. 55.4–27 [Reserved]

3. New mandatory standard 55.4–28 is added to read as follows:

55.4–28 Mandatory. Welding, cutting, arc welding or soldering shall be performed by a competent person.

4. New mandatory standard 55.4–35 is added to read as follows:

55.4–35 Mandatory. Before any heat is applied to pipelines or containers which have contained flammable or combustible substances, they shall be drained, ventilated, thoroughly cleaned of residual substances and filled with either an inert gas or, where compatible, filled with water.

5. Advisory standard 55.4–12 is renumbered 55.4–49 and standard number 55.4–12 is reserved. 55.4–12 [Reserved]

**§ 55.5 [Amended]**

1. A new center heading entitled "Air Quality" is added immediately below the heading of § 55.5 and preceding standard 55.5–1.

2. A new center heading entitled "Physical Agents" is added preceding standard 55.5–50.

**§ 55.6 [Amended]**

1. Advisory standard 55.6–49 is revoked and standard number 55.6–49 is reserved. 55.6–49 [Reserved]

2. New mandatory standard 55.6–93 is added to read as follows:

55.6–93 Mandatory. Boreholes shall be cleared of obstructions before charging.

3. Mandatory standard 55.6–100 is revised to read as follows:

55.6–100 Mandatory. Tamping poles shall be of wood or other material acceptable to the Mining Enforcement and Safety Administration. Couplers of tamping poles shall be nonsparking materials.

4. Advisory standard 55.6–136 is made mandatory and revised to read as follows:

55.6–136 Mandatory. Black powder shall not be used for blasting except when a desired result cannot be obtained with another type of explosive such as in quarrying certain types of dimension stone.

§ 55.9 [Amended]

D. § 55.9 Loading, hauling, dumping is amended as follows:

1. Mandatory standard 55.9–9 is revised to read as follows:

55.9–9 Mandatory. Operators shall sound warning before starting trains and when trains approach crossings, other trains on adjacent tracks, persons, and any place where vision is obscured.

2. Advisory standard 55.9–17 is made mandatory and revised to read as follows:

55.9–17 Mandatory. Equipment operating speeds shall be consistent with conditions of roadways, grades, clearance, visibility, traffic, and the type of equipment used.

3. Advisory standard 55.9–19 is made mandatory and revised to read as follows:

55.9–19 Mandatory. Track guardrails, lead rails, and frogs shall be protected or blocked so as to prevent a person's foot from becoming wedged.

4. Advisory standard 55.9–21 is revoked and standard number 55.9–21 is reserved. 55.9–21 [Reserved]

5. New mandatory standard 55.9–26 is added to read as follows:

55.9–26 Mandatory. A quick-close type air valve shall be provided on each piece of pneumatic-powered loading, hauling, and dumping equipment. The valve shall be closed except when the equipment is being operated.

6. Mandatory standard 55.9–37 is revised to read as follows:

55.9–37 Mandatory. Mobile equipment shall not be left unattended unless the brakes are set. Mobile equipment with wheels or tracks, when parked on a grade, shall be either blocked or turned into a bank or rib; and the bucket or blade lowered to the ground to prevent movement.

7. Mandatory standard 55.9–33 is revoked and standard number 55.9–33 is reserved. 55.9–33 [Reserved]

8. Mandatory standard 55.9–40 is revised to read as follows:

55.9–40 Mandatory. Men shall not be transported:

(a) In or on dippers, forks, clamshells, beds of trucks unless special provisions are made for their safety, or buckets except shaft buckets.

(b) On top of loaded haulage equipment.

(c) Otuside the cabs and beds of mobile equipment, except trains.

(d) Between cars of trains.

(e) In conveyances equipped with unloading devices unless means are provided to prevent accidental starting of the unloading mechanism.

9. Advisory standard 55.9–42 is made mandatory and revised to read as follows:

55.9–42 Mandatory. Rocker-bottom or bottom-dump rail cars shall be equipped with locking devices.

10. Mandatory standard 55.9–43 is revoked and standard number 55.9–43 is reserved. 55.9–43 [Reserved]

11. Advisory standard 55.9–49 is made mandatory and revised to read as follows:

55.9–49 Mandatory. When in the dark or under conditions of limited visibility, all vehicles carrying loads which project beyond the sides or more than four feet beyond the rear of the vehicles shall display a warning light at the end of the projection; or in the light, a warning flag not less than 12 inches square shall be displayed at the end of the projection.

12. Advisory standard 55.9–53 is made mandatory and revised to read as follows:

55.9–53 Mandatory. Water, debris or spilled material which create hazards to moving equipment shall be removed.

13. Advisory standard 55.9–55 is made mandatory and revised to read as follows:

55.9–55 Mandatory. Where there is evidence that the ground at a dumping place may fail to support the weight of a vehicle, loads shall be dumped back from the edge of the bank.

14. Advisory standard 55.9–65 is made mandatory and revised to read as follows:

55.9–65 Mandatory. Cars shall not be coupled, or uncoupled, manually from the inside of curves unless the railroad and cars are so designed to eliminate any hazard from manual coupling.

15. New mandatory standard 55.9–66 is added to read as follows:

55.9–66 Mandatory. When a locomotive on one track is used to move equipment on a different track, a suitable chain, cable, or drawbar shall be used.

16. Advisory standard 55.9–71 is made mandatory and revised to read as follows:

55.9–71 Mandatory. Traffic rules including speed, signals, and warning signs shall be standardized at each mine and posted.

17. Advisory standard 55.9–84 is revoked and standard number 55.9–84 is reserved. 55.9–84 [Reserved]

18. Mandatory standard 55.9–85 is revised to read as follows:

55.9–85 Mandatory. Tools, materials and equipment shall not be transported with persons in vehicles, rail cars, and other conveyances unless means have been provided to make such transportation safe.

19. Advisory standard 55.9–86 is revoked and standard number 55.9–86 is reserved. 55–9–86 [Reserved]

20. Advisory standard 55.9–4 is renumbered 55.9–87 and is made mandatory and revised to read as follows:

55.9–87 Mandatory. Heavy duty mobile equipment shall be provided with audible warning devices. When the operator of such equipment has an obstructed view to the rear, the equipment shall have either an automatic reverse signal alarm which is audible above the surrounding noise level or an observer to signal when it is safe to back up.

21. Standard number 55.9–4 is reserved. 55.9–4 [Reserved]

§ 55.19 [Amended]

1. Advisory standard 55.19–22 is made mandatory and revised to read as follows:

55.19–22 Mandatory. The end of the rope at the drum shall make at least one full turn on the drum shaft, or a spoke of the drum in the case of a free drum, and shall be fastened securely by means of rope clips or clamps. There shall be three full turns of cable or rope on the hoisting drum when the cable or rope is extended to its maximum working length. This standard does not apply to friction hoists.

2. Advisory standard 55.19–23 is revoked and standard number 55.19–23 is reserved. 55.19–23 [Reserved]

3. Advisory standard 55.19–63 is made mandatory and revised to read as follows:

55.19–63 Mandatory. Only authorized persons shall be in hoist rooms.

4. Advisory standard 55.19–95 is made mandatory and revised to read as follows:

55.19–95 Mandatory. Hoisting signal devices shall be positioned within easy reach of persons on the shaft bottom or constantly attended by a person stationed on the lower deck of the sinking platform.

4. Advisory standard 55.19–103 is made mandatory and revised to read as follows:

55.19–103 Mandatory. Dumping facilities and loading pockets shall be constructed so as to minimize spillage into the shaft.

[FR Doc.76–16799 Filed 6–9–76;8:45 am]

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## PART 56—HEALTH AND SAFETY STANDARDS—SAND, GRAVEL, CRUSHED STONE OPERATIONS

### Miscellaneous Amendments

Pursuant to the authority vested in the Secretary of the Interior under section 6 of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725) to develop, revise, and promulgate health and safety standards for metal and nonmetallic mines, a notice of proposed rulemaking was published on Thursday, September 25, 1975, in Part III of the FEDERAL REGISTER (40 FR 44275–44278) to amend Part 56, subchapter N, Chapter I, Title 30, Code of Federal Regulations by revising certain existing standards, by revoking certain standards, by revising certain advisory standards to make them mandatory, and by adding new mandatory standards. Each of the standards and actions contained in the notice was developed or revised after consultation with the Federal Metal and Nonmetal Mine Safety Advisory Committee appointed pursuant to section 7 of the Act (30 U.S.C. 726).

The notice further provided that each proposed standard which was to be a mandatory standard was designated by the word "Mandatory" at the beginning of the standard and if the mandatory standard had been recommended by the Federal Metal and Nonmetal Mine Safety Advisory Committee, the standard is preceded by the word "Mandatory" and the letters "MNMSAC" in this manner "Mandatory. MNMSAC ____."

Subject to the provisions of subsection (e) of section 6 (30 U.S.C. 725(e)) and in accordance with the provisions of sub-

section (d) of section 6 of the Act (30 U.S.C. 725(d)), on or before the last day of the period fixed for the submission of written data, views, or arguments, any person who may be adversely affected by a proposed health or safety standard which was designated as a mandatory standard under subsection (b) and (c) of section 6 of the Act (30 U.S.C. 725(b) and (c)) and which had not been recommended as a mandatory standard by the Federal Metal and Nonmetal Mine Safety Advisory Committee, was afforded an opportunity to file with the Secretary written objections stating the grounds for such objections and requesting a public hearing subject to the provisions of the Administrative Procedure Act (5 U.S.C. 556, 557) on such objections.

Pursuant to the provisions of subsection (e) of section 6 of the Act proposed mandatory standards which have been recommended by the Federal Metal and Nonmetal Mine Safety Advisory Committee are not subject to a public hearing.

Interested persons were requested to submit written data, views, arguments, and objections, including a request for a public hearing, to the Administrator, Mining Enforcement and Safety Administration, Department of the Interior, on or before November 6, 1975. By a notice published in the FEDERAL REGISTER on Tuesday, November 4, 1975 (40 FR 51202) the period of time for the submission and filing of comments, objections and requests for public hearing was extended to and including Friday, December 5, 1975.

Written comments, data, views, arguments, suggestions, objections and requests for public hearing on proposed standards subject to a public hearing were timely received. In some instances requests for a public hearing were made on proposed standards which had been recommended to be mandatory by the Advisory Committee. The requests for public hearing made on standards which are not subject to a public hearing are denied.

The standards which are promulgated below are proposed standards which were not subject to a public hearing, or standards on which no comments were received. Pursuant to section 6(d) of the Act a notice specifying proposed mandatory standards subject to a public hearing and to which objections and the grounds for such objections have been timely filed, has been or will be published in the FEDERAL REGISTER and a hearing held thereon at a time and place specified in such notice.

The comments, views, and suggestions which were received have been fully and carefully considered. Action is being withheld at this time on a number of proposed standards and proposed revocation of standards which are not subject to a public hearing, particularly those with respect to explosives, because of the interrelation with proposed standards on which hearings have been requested and on which hearings are to be held. However, there are some explosives standards which are being promulgated at this time which are not related to requests for hearing or which will not be affected by a hearing. In consideration of comments and suggestions received some revisions have been made in standards as proposed and recommended to be mandatory by the Advisory Committee. Standard 56.6–93 has been revised for clarity and intent to provide that where there is an obstruction in a borehole the obstruction shall be cleared before the hole is charged. In standard 56.9–49 the requirement of a red light or red flag on loads projecting from the sides or rear of vehicles has been revised to require a warning light or warning flag without specifying the color. Standard 56.9–66 has been revised to permit the use of a cable to move equipment on a different track.

Part 56, subchapter N, Chapter I, Title 30, Code of Federal Regulations is amended as set forth below.

Effective date: The amendments, revisions, and revocation of standards shall be effective on July 15, 1976.

Dated: June 4, 1976.

WILLIAM L. FISHER,
*Assistant Secretary of the Interior.*

Part 56, subchapter N, Chapter I, Title 30, Code of Federal Regulations is amended and revised as follows:

**§ 56.4 [Amended]**

1. Advisory standard 56.4–24 is made mandatory and revised to read as follows:

56.4–24 Mandatory. Fire extinguishers and fire suppression devices shall be:

(a) Of the appropriate type of the particular fire hazard involved.

(b) Adequate in number and size for the particular fire hazard involved.

(c) Replaced with a fully charged extinguisher or device, or recharged immediately, after any discharge is made from the extinguisher or device.

(d) Inspected, tested, and maintained at regular intervals according to the manufacturer's recommendations.

(e) Approved by the Underwriter's Laboratories, Inc., or other competent testing agency acceptable to the Mining Enforcement and Safety Administration.

2. Advisory standard 56.4–27 is renumbered 56.4–39 and standard number 56.4–27 is reserved. 56.4–27 [Reserved]

3. New mandatory standard 56.4–28 is added to read as follows:

56.4–28 Mandatory. Welding, cutting, arc welding or soldering shall be performed by a competent person.

4. New mandatory standard 56.4–35 is added to read as follows:

56.4–35 Mandatory. Before any heat is applied to pipelines or containers which have contained flammable or combustible substances, they shall be drained, ventilated, thoroughly cleaned of residual substances and filled with either an inert gas or, where compatible, filled with water.

5. Advisory standard 56.4–12 is renumbered 56.4–49 and standard number 56.4–12 is reserved. 56.4–12 [Reserved]

**§ 56.5 [Amended]**

1. A new center heading entitled "Air Quality" is added immediately below the heading of § 56.5 and preceding standard 56.5–1.

2. A new center heading entitled "Physical Agents" is added preceding standard 56.5–50.

**§ 56.6 [Amended]**

1. Advisory standard 56.6–49 is revoked and standard number 56.6–49 is reserved. 56.6–49 [Reserved]

2. New mandatory standard 56.6–93 is added to read as follows:

56.6–93 Mandatory. Boreholes shall be cleared of obstructions before charging.

3. Mandatory standard 56.6–100 is revised to read as follows:

56.6–100 Mandatory. Tamping poles shall be of wood or other material acceptable to the Mining Enforcement and Safety Administration. Couplers of tamping poles shall be nonsparking materials.

4. Advisory standard 56.6–136 is made mandatory and revised to read as follows:

56.6–136 Mandatory. Black powder shall not be used for blasting except when a desired result cannot be obtained with another type of explosive such as in quarrying certain types of dimension stone.

**§ 56.9 [Amended]**

1. Mandatory standard 56.9–9 is revised to read as follows:

56.9–9 Mandatory. Operators shall sound warning before starting trains and when trains approach crossings, other trains on adjacent tracks, persons, and any place where vision is obscured.

2. Advisory standard 56.9–17 is made mandatory and revised to read as follows:

56.9–17 Mandatory. Equipment operating speeds shall be consistent with conditions of roadways, grades, clearance, visibility, traffic, and the type of equipment used.

3. Advisory standard 56.9–19 is made mandatory and revised to read as follows:

56.9–19 Mandatory. Track guardrails, lead rails, and frogs shall be protected or blocked so as to prevent a person's foot from becoming wedged.

4. Advisory standard 56.9–21 is revoked and standard number 56.9–21 is reserved. 56.9–21 [Reserved]

5. New mandatory standard 56.9–26 is added to read as follows:

56.9–26 Mandatory. A quick-close type air valve shall be provided on each piece of pneumatic-powered loading, hauling, and dumping equipment. The valve shall be closed except when the equipment is being operated.

6. Mandatory standard 56.9–37 is revised to read as follows:

56.9–37 Mandatory. Mobile equipment shall not be left unattended unless the brakes are set. Mobile equipment with wheels or tracks, when parked on a grade, shall be either blocked or turned into a bank or rib; and the bucket or blade lowered to the ground to prevent movement.

7. Mandatory standard 56.9–33 is revoked and standard number 56.9–33 is reserved. 56.9–33 [Reserved]

8. Mandatory standard 56.9–40 is revised to read as follows:

56.9–40 Mandatory. Men shall not be transported:

(a) In or on dippers, forks, clamshells, beds of trucks unless special provisions are made for their safety, or buckets except shaft buckets.

(b) On top of loaded haulage equipment.

(c) Outside the cabs and beds of mobile equipment, except trains.

(d) Between cars of trains.

(e) In conveyances equipped with unloading devices unless means are provided to prevent accidental starting of the unloading mechanism.

9. Advisory standard 56.9–42 is made mandatory and revised to read as follows:

56.9–42 Mandatory. Rocker-bottom or bottom-dump rail cars shall be equipped with locking devices.

10. Mandatory standard 56.9–43 is revoked and standard number 56.9–43 is reserved. 56.9–43 [Reserved]

11. Advisory standard 56.9–49 is made mandatory and revised to read as follows:

56.9–49 Mandatory. When in the dark or under conditions of limited visibility, all vehicles carrying loads which project beyond the sides or more than four feet beyond the rear of the vehicles shall display a warning light at the end of the projection; or in the light, a warning flag not less than 12 inches square shall be displayed at the end of the projection.

12. Advisory standard 56.9–53 is made mandatory and revised to read as follows:

56.9–53 Mandatory. Water, debris or spilled material which create hazards to moving equipment shall be removed.

13. Advisory standard 56.9–55 is made mandatory and revised to read as follows:

56.9–55 Mandatory. Where there is evidence that the ground at a dumping place may fail to support the weight of a vehicle, loads shall be dumped back from the edge of the bank.

14. Advisory standard 56.9–65 is made mandatory and revised to read as follows:

56.9–65 Mandatory. Cars shall not be coupled, or uncoupled, manually from the inside of curves unless the railroad and cars are so designed to eliminate any hazard from manual coupling.

15. New mandatory standard 56.9–66 is added to read as follows:

56.9–66 Mandatory. When a locomotive on one track is used to move equipment on a different track, a suitable chain, cable, or drawbar shall be used.

16. Advisory standard 56.9–71 is made mandatory and revised to read as follows:

56.9–71 Mandatory. Traffic rules including speed, signals, and warning signs shall be standardized at each mine and posted.

17. Advisory standard 56.9–84 is revoked and standard number 56.9–84 is reserved. 56.9–84 [Reserved]

18. Mandatory standard 56.9–85 is revised to read as follows:

56.9–85 Mandatory. Tools, materials and equipment shall not be transported with persons in vehicles, rail cars, and other conveyances unless means have been provided to make such transportation safe.

19. Advisory standard 56.9–86 is revoked and standard number 56.9–86 is reserved. 56.9–86 [Reserved]

20. Advisory standard 56.9–4 is renumbered 56.9–87 and is made mandatory and revised to read as follows:

56.9–87 Mandatory. Heavy duty mobile equipment shall be provided with audible warning devices. When the operator of such equipment has an obstructed view to the rear, the equipment shall have either an automatic reverse signal alarm which is audible above the surrounding noise level or an observer to signal when it is safe to back up.

21. Standard number 56.9–4 is reserved. 56.9–4 [Reserved]

§ 56.19 [Amended]

1. Advisory standard 56.19–22 is made mandatory and revised to read as follows:

56.19–22 Mandatory. The end of the rope at the drum shall make at least one full turn on the drum shaft, or a spoke of the drum in the case of a free drum, and shall be fastened securely by means of rope clips or clamps. There shall be three full turns of cable or rope on the hoisting drum when the cable or rope is extended to its maximum working length. This standard does not apply to friction hoists.

2. Advisory standard 56.19–23 is revoked and standard number 56.19–23 is reserved. 56.19–23 [Reserved]

3. Advisory standard 56.19–63 is made mandatory and revised to read as follows:

56.19–63 Mandatory. Only authorized persons shall be in hoist rooms.

4. Advisory standard 56.19–95 is made mandatory and revised to read as follows:

56.19–95 Mandatory. Hoisting signal devices shall be positioned within easy reach of persons on the shaft bottom or constantly attended by a person stationed on the lower deck of the sinking platform.

4. Advisory standard 56.19–103 is made mandatory and revised to read as follows:

56.19–103 Mandatory. Dumping facilities and loading pockets shall be constructed so as to minimize spillage into the shaft.

[FR Doc.76–16800 Filed 6–9–76;8:45 am]

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## PART 57—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

### Miscellaneous Amendments

Pursuant to the authority vested in the Secretary of the Interior under section 6 of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725) to develop, revise, and promulgate health and safety standards for metal and nonmetallic mines, a notice of proposed rulemaking was published on Thursday, September 25, 1975, in Part III of the FEDERAL REGISTER (40 FR 44279–44285) to amend Part 57, subchapter N, Chapter I, Title 30, Code of Federal Regulations by revising certain existing standards, by revoking certain standards, by revising certain advisory standards to make them mandatory, and by adding new mandatory standards. Each of the standards and actions contained in the notice was developed or revised after consultation with the Federal Metal and Nonmetal Mine Safety Advisory Committee appointed pursuant to section 7 of the Act (30 U.S.C. 726).

The notice further provided that each proposed standard which was to be a mandatory standard was designated by the word "Mandatory" at the beginning of the standard and if the mandatory standard had been recommended by the Federal Metal and Nonmetal Mine Safety Advisory Committee, the standard is preceded by the word "Mandatory" and the letters "MNMSAC" in this manner "Mandatory. MNMSAC ____."

Subject to the provisions of subsection (e) of section 6 (30 U.S.C. 725(e)) and in accordance with the provisions of subsection (d) of section 6 of the Act (30 U.S.C. 725(d)), on or before the last day of the period fixed for the submission of written data, views, or arguments, any person who may be adversely affected by a proposed health or safety standard which was designated as a mandatory standard under subsection (b) and (c) of section 6 of the Act (30 U.S.C. 725 (b) and (c)) and which had not been recommended as a mandatory standard by the Federal Metal and Nonmetal Mine Safety Advisory Committee, was afforded an opportunity to file with the Secretary written objections stating the grounds for such objections and requesting a public hearing subject to the provisions of the Administrative Procedure Act (5 U.S.C. 556, 557) on such objections.

Pursuant to the provisions of subsection (e) of section 6 of the Act proposed mandatory standards which have been recommended by the Federal Metal and Nonmetal Mine Safety Advisory Committee are not subject to a public hearing.

Interested persons were requested to submit written data, views, arguments, and objections, including a request for a public hearing, to the Administrator, Mining Enforcement and Safety Administration, Department of the Interior, on or before November 6, 1975. By a notice published in the FEDERAL REGISTER on Tuesday, November 4, 1975 (40 FR 51202) the period of time for the submission and filing of comments, objections and requests for public hearing was extended to and including Friday, December 5, 1975.

Written comments, data, views, arguments, suggestions, objections and requests for public hearing on proposed standards subject to a public hearing were timely received. In some instances requests for a public hearing were made on proposed standards which had been recommended to be mandatory by the Advisory Committee. The requests for

public hearing made on standards which are not subject to a public hearing are denied.

The standards which are promulgated below are proposed standards which were not subject to a public hearing, or standards on which no comments were received. Pursuant to section 6(d) of the Act a notice, specifying proposed mandatory standards subject to a public hearing and to which objections and the grounds for such objections have been timely filed, has been or will be published in the FEDERAL REGISTER and a hearing held thereon at a time and place specified in such notice.

The comments, views, and suggestions which were received have been fully and carefully considered. Action is being withheld at this time on a number of proposed standards and proposed revocation of standards which are not subject to a public hearing, particularly those with respect to explosives, because of the interrelation with proposed standards on which hearings have been requested and on which hearings are to be held. However, there are some explosives standards which are being promulgated at this time which are not related to requests for hearing or which will not be affected by a hearing. In consideration of comments and suggestions received some revisions have been made in standards as proopsed and recommended to be mandatory by the Advisory Committee. As proposed, paragraph (e) of standard 57.5–31 would require both audible and visual warning devices on mechanically operated ventilation doors. The Advisory Committee recommended the use of either audible or visual warning devices. The word "and" was inadvertently used in proposed paragraph (e) and has been changed to "or" to accurately reflect the intention and recommendation of the Advisory Committee. Standard 57.6–93 has been revised for clarity and intent to provide that where there is an obstruction in a borehole the obstruction shall be cleared before the hole is charged. In standard 57.9–49 the requirement of a red light or red flag on loads projecting from the sides or rear of vehicles has been revised to require a warning light or warning flag without specifying the color. Standard 57.9–66 has been revised to permit the use of a cable to move equipment on a different track.

Part 57, subchapter N, Chapter I, Title 30, Code of Federal Regulations is amended as set forth below.

Effective date: The amendments, revisions, and revocation of standards shall be effective on July 15, 1976.

Dated: June 4, 1976.

WILLIAM L. FISHER,
*Assistant Secretary of the Interior.*

Part 57, Subchapter N, Chapter I, Title 30, Code of Federal Regulations is amended and revised as follows:

§ 57.4 [Amended]

1. Advisory standard 57.4–24 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.4–24 Mandatory. Fire extinguishers and fire suppression devices shall be:

(a) Of the appropriate type for the particular fire hazard involved.

(b) Adequate in number and size for the particular fire hazard involved.

(c) Replaced with a fully charged extinguisher or device, or recharged immediately, after any discharge is made from the extinguisher or device.

(d) Inspected, tested, and maintained at regular intervals according to the manufacturer's recommendations.

(e) Approved by the Underwriter's Laboratories, Inc., or other competent testing agency acceptable to the Mining Enforcement and Safety Administration.

2. Advisory standard 57.4–27 is renumbered 57.4–39 and standard number 57.4–27 is reserved. 57.4–27 [Reserved]

3. New mandatory standard 57.4–28 which is applicable to surface and underground is added to read as follows:

57.4–28 Mandatory. Welding, cutting, arc welding or soldering shall be performed by a competent person.

4. New mandatory standard 57.4–35 which is applicable to surface and underground is added to read as follows:

57.4–35 Mandatory. Before any heat is applied to pipelines or containers which have contained flammable or combustible substances, they shall be drained, ventilated, thoroughly cleaned of residual substances and filled with either an inert gas or, where compatible, filled with water.

5. Advisory standard 57.4–12 is renumbered 57.4–49 and is made applicable to surface only. Standard number 57.4–12 is reserved. 57.4–12 [Reserved]

6. New mandatory standard 57.4–50 which is applicable to underground only is added to read as follows:

57.4–50 Mandatory. All flammable and combustible waste materials, grease, lubricants or flammable liquids shall not be allowed to accumulate where they can create a fire hazard.

7. Reserved standard number 57.4–39 is transferred to immediately follow the center subheading "Surface Only" and immediately preceding standard number 57.4–40. Advisory standard number 57.4–27 is renumbered 57.4–39 and shall be applicable to surface only. The revisions will read as follows:

* * * * *

SURFACE ONLY

57.4–39. Suitable fire extinguishers should be provided on self-propelled mobile equipment with enclosed cabs.

8. New mandatory standard 57.4–85 which is applicable to underground only is added to read as follows:

57.4–85 Mandatory. Stationary diesel equipment shall not be supported on a combustible base.

9. New mandatory standard 57.4–86 which is applicable to underground only is added to read as follows:

57.4–86 Mandatory. Stationary diesel equipment shall be provided with a thermal sensor which automatically stops the diesel engine should overheating occur.

§ 57.5 [Amended]

1. A new center heading entitled "Air Quality" is added immediately below the heading of § 57.5 and immediately preceding the present center heading entitled "General—Surface and Underground."

2. Advisory standard 57.5–15 which is applicable to underground only is made mandatory and revised to read as follows:

57.5–15 Mandatory. Air in all active workings shall contain at least 19.5 volume percent oxygen.

3. New center subheadings are added and reserved standard numbers are established as follows:

(a) The entry "57.5–16 through 57.5–19 [Reserved]" is revised to read "57.5–16 through 57.5–17 [Reserved]."

(b) A new center subheading entitled "General-Surface and Underground" is added immediately below the center heading entitled "Ventilation" which follows reserved standard numbers 57.5–16 and 57.5–17. Reserved standard number 57.5–18 is revoked and a new series of reserved standard numbers 57.5–18A through 57.5–18Z are established and added under the new center subheading entitled "General-Surface and Underground."

(c) A new center subheading entitled "Surface Only" is added immediately preceding the present center subheading entitled "Underground Only." Reserved standard number 57.5–19 is revoked and a new series of reserved standard numbers 57.5–19A through 57.5–19Z are established and added under the new center subheading "Surface Only."

As revised the reserved standard numbers and center and subheadings will read as follows:

* * * * *

57.5–16 through 57.5–17 [Reserved]

VENTILATION

GENERAL—SURFACE AND UNDERGROUND

57.5–18A through 57.5–18Z [Reserved]

SURFACE ONLY

57.5–19A through 57.5–19Z [Reserved]

UNDERGROUND ONLY

* * * * *

4. New mandatory standard 57.5–31 which is applicable to underground only is added to read as follows:

57.5–31 Mandatory. Ventilation doors shall be:

(a) Substantially constructed.

(b) Covered with fire-retardant material, if constructed of wood.

(c) Maintained in good condition.

(d) Self-closing, if manually operated.

(e) Equipped with audible or visual warning devices, if mechanically operated.

5. New mandatory standard 57.5–32 which is applicable to underground only is added to read as follows:

57.5–82 Mandatory. When ventilation control doors are opened as a part of the normal mining cycle, they shall be closed as soon as possible to re-establish normal ventilation to working places.

6. Mandatory standard 57.5–38 which is applicable to underground only is revised to read as follows:

57.5–38 Mandatory. No person shall be permitted to receive an exposure in excess of 4 WLM in any calendar year.

7. Mandatory standard 57.5–39 which is applicable to underground only is revised to read as follows:

57.5–39 Mandatory. Except as provided by standard 57.5–5, persons shall not be exposed to air conditioning concentrations of radon daughters exceeding 1.0 WL in active workings.

8. Mandatory standard 57.5–41 which is applicable to underground only is revised to read as follows:

57.5–41 Mandatory. Smoking shall be prohibited in all areas of a mine where exposure records are required to be kept in compliance with standard 57.5–40.

9. A new center heading and new center subheading are added immediately preceding standard 57.5–50 as follows:

PHYSICAL AGENTS

GENERAL—SURFACE AND UNDERGROUND

§ 57.6 [Amended]

1. Advisory standard 57.6–49 is revoked and standard number 57.6–49 is reserved. 57.6–49 [Reserved]

2. Advisory standard 57.6–179 is renumbered 57.6–93 which is applicable to surface and underground and is made mandatory and revised to read as follows:

57.6–93 Mandatory. Boreholes shall be cleared of obstructions before charging.

3. Standard number 57.6–179 is reserved. 57.6–179 [Reserved]

4. Mandatory standard 57.6–100 which is applicable to surface and underground is revised to read as follows:

57.6–100 Mandatory. Tamping poles shall be of wood or other material acceptable to the Mining Enforcement and Safety Administration. Couplers of tamping poles shall be of nonsparking materials.

5. Advisory standard 57.6–136 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.6–136 Mandatory. Black powder shall not be used for blasting except when a desired result cannot be obtained with another type of explosive such as in quarrying certain types of dimension stone.

6. Advisory standard 57.6–197 is revoked and standard number 57.6–197 is reserved. 57.6–197 [Reserved]

§ 57.9 [Amended]

1. Mandatory standard 57.9–9 which is applicable to surface and underground is revised to read as follows:

57.9–9 Mandatory. Operators shall sound warning before starting trains and when trains approach crossings, other trains on adjacent tracks, persons, and any place where vision is obscured.

2. Advisory standard 57.9–17 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.9–17 Mandatory. Equipment operating speeds shall be consistent with conditions of roadways, grades, clearance, visibility, traffic, and the type of equipment used.

3. Advisory standard 57.9–19 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.9–19 Mandatory. Track guardrails, lead rails, and frogs shall be protected or blocked so as to prevent a person's foot from becoming wedged.

4. Advisory standard 57.9–21 is revoked and standard number 57.9–21 is reserved. 57.9–21 [Reserved]

5. Advisory standard 57.9–100 is renumbered 57.9–26 and is made mandatory and applicable to both surface and underground and is revised to read as follows:

57.9–26 Mandatory. A quick-close type air valve shall be provided on each piece of pneumatic-powered loading, hauling, and dumping equipment. The valve shall be closed except when the equipment is being operated.

6. Standard number 57.9–100 is reserved. 57.9–100 [Reserved]

7. Mandatory standard 57.9–33 is revoked and standard number 57.9–33 is reserved. 57.9–33 [Reserved]

8. Mandatory standard 57.9–37 which is applicable to surface and underground is revised to read as follows:

57.9–37 Mandatory. Mobile equipment shall not be left unattended unless the brakes are set. Mobile equipment with wheels or tracks, when parked on a grade, shall be either blocked or turned into a bank or rib; and the bucket or blade lowered to the ground to prevent movement.

9. Advisory standard 57.9–38 is revoked and standard number 57.9–38 is reserved. 57.9–38 [Reserved]

10. Mandatory standard 57.9–40 which is applicable to surface and underground is revised to read as follows:

57.9–40 Mandatory. Men shall not be transported:

(a) In or on dippers, forks, clamshells, beds of trucks unless special provisions are made for their safety, or buckets except shaft buckets.

(b) On top of loaded haulage equipment.

(c) Outside the cabs and beds of mobile equipment, except trains.

(d) Between cars of trains.

(e) In conveyances equipped with unloading devices unless means are provided to prevent accidental starting of the unloading mechanism.

11. Advisory standard 57.9–42 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.9–42 Mandatory. Rocker-bottom or bottom-dump rail cars shall be equipped with locking devices.

12. Mandatory standard 57.9–43 is revoked and standard number 57.9–43 is reserved. 57.9–43 [Reserved]

13. Advisory standard 57.9–44 is revoked and standard number 57.9–44 is reserved. 57.9–44 [Reserved]

14. Advisory standard 57.9–49 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.9–49 Mandatory. When in the dark or under conditions of limited visibility, all vehicles carrying loads which project beyond the sides or more than four feet beyond the rear of the vehicles shall display a warning light at the end of the projection; or in the light, a warning flag not less than 12 inches square shall be displayed at the end of the projection.

15. Advisory standard 57.9–53 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.9–53 Mandatory. Water, debris, or spilled material which create hazards to moving equipment shall be removed.

16. Advisory standard 57.9–55 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.9–55 Mandatory. Where there is evidence that the ground at a dumping place may fail to support the weight of a vehicle, loads shall be dumped back from the edge of the bank.

17. Advisory standard 57.9–65 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.9–65 Mandatory. Cars shall not be coupled, or uncoupled, manually from the inside of curves unless the railroad and cars are so designed to eliminate any hazard from manual coupling.

18. Advisory standard 57.9–66 which is applicable to surface and underground is made mandatory and revised to read as follows:

57.9–66 Mandatory. When a locomotive on one track is used to move equipment on a different track, a suitable chain, cable, or drawbar shall be used.

19. Advisory standard 57.9–84 is renumbered 57.9–71 and is made mandatory and applicable to both surface and underground and revised to read as follows:

57.9–71 Mandatory. Traffic rules including speed, signals, and warning signs shall be standardized at each mine and posted.

20. Standard number 57.9–84 is reserved. 57.9–84 [Reserved]

21. Mandatory standard 57.9–85 which is applicable to surface only is revised to read as follows:

57.9–85 Mandatory. Tools, materials and equipment shall not be transported with persons in rail cars and other vehicles and conveyances unless means have been provided to make such transportation safe.

22. Advisory standard 57.9–86 is revoked and standard number 57.9–86 is reserved. 57.9–86 [Reserved]

23. Advisory standard 57.9–4 is renumbered 57.9–87 and is made mandatory and applicable to surface only and is revised to read as follows:

57.9–87 Mandatory. Heavy duty mobile equipment shall be provided with audible warning devices. When the operator of such equipment has an obstructed view to the rear, the equipment shall have either an automatic reverse signal alarm which is audible above the surrounding noise level or an observer to signal when it is safe to back up.

24. Advisory standard number 57.9–4 is reserved. 57.9–4 [Reserved]

25. Advisory standard 57.9–96 which is applicable to underground only is made mandatory and is revised to read as follows:

57.9–96 Mandatory. Tools or materials, except properly located and secured rerailing devices, shall not be carried on top of locomotives. Tools or materials shall not be carried in the cab if they would interfere with the operation of the locomotive.

26. Advisory standard 57.9–109 is revoked and standard number 57.9–109 is reserved. 57.9–109 [Reserved]

27. Advisory standard 57.9–111 which is applicable to underground only is made mandatory and revised to read as follows:

57.9–111 Mandatory. Shelter holes shall be at least 4-feet wide, marked conspicuously with lights or reflective signs or reflective tape or reflectors or luminous paint, provide a minimum of 40-inch clearance from the farthest projection of moving equipment, and shall not be used for storage of timber, tools, or other materials unless a 40-inch clearance is maintained.

28. Mandatory standard 57.9–117 is revoked and standard number 57.9–117 is reserved. 57.9–117 [Reserved]

§ 57.19 [Amended]

1. Advisory standard 57.19–22 is made mandatory and revised to read as follows:

57.19–22 Mandatory. The end of the rope at the drum shall make at least one full turn on the drum shaft, or a spoke of the drum in the case of a free drum, and shall be fastened securely by means of rope clips or clamps. There shall be three full turns of cable or rope on the hoisting drum when the cable or rope is extended to its maximum working length. This standard does not apply to friction hoists.

2. Advisory standard 57.19–23 is revoked and standard number 57.19–23 is reserved. 57.19–23 [Reserved]

3. Advisory standard 57.19–63 is made mandatory and revised to read as follows:

57.19–63 Mandatory. Only authorized persons shall be in hoist rooms.

4. Advisory standard 57.19–95 is made mandatory and revised to read as follows:

57.19–95 Mandatory. Hoisting signal devices shall be positioned within easy reach of persons on the shaft bottom or constantly attended by a person stationed on the lower deck of the sinking platform.

5. Advisory standard 57.19–103 is made mandatory and revised to read as follows:

57.19–103 Mandatory. Dumping facilities and loading pockets shall be constructed so as to minimize spillage into the shaft.

§ 57.21 [Amended]

1. Mandatory standard 57.21–2 is revised to read as follows:

57.21–2 Mandatory. Flammable gases detected only while unwatering mines or flooded sections of mines or during other mine reclamation operations shall not be used to permanently classify a mine gassy. During such periods that any flammable gas is present in the mine, the affected areas of the mine shall be operated in accordance with appropriate standards in this Section 57.21.

2. Advisory standard 57.21–25 is made mandatory and revised to read as follows:

57.21–25 Mandatory. When there has been a failure of mine ventilation other than a failure of a main fan as described in standard 57.21–24, the operator shall take the following immediate actions:

(a) Withdraw all persons from the affected active workings.

(b) Deenergize the power in affected active workings. The power shall not be restored or persons permitted to reenter the affected active workings until a competent person(s) has determined that the methane concentration in such active workings is less than 1.0 percent.

3. Mandatory standard 57.21–28 is revised to read as follows:

57.21–28 Mandatory. Booster fans shall be:

(a) Operated by permissible drive units maintained in permissible condition.

(b) Operated only in air containing less than 1.0 percent methane.

(c) Kept in continuous operation when persons are in active workings of the mine affected by such fans.

4. Mandatory standard 57.21–29 is revised to read as follows:

57.21–29 Mandatory. Booster fans shall be:

(a) Provided with an automatic signal device to give warning or alarm should the fan system malfunction. The signal device shall be so located that it can be seen or heard by a responsible person at all times when persons are underground.

(b) Equipped with a device that automatically deenergizes the power in affected active workings should the fan system malfunction.

(c) Provided with air locks, the doors of which open automatically should the fan stop.

(d) Equipped with two sets of controls capable of starting, stopping, and reversing the fans. One set of controls shall be located at the fans. A second set of controls shall be at another location remote from the fans.

5. New mandatory standard 57.4–64 is added to read as follows:

57.21–64 Mandatory. Each operator shall use permissible devices accepted by the Secretary of the Interior for detecting flammable gases, oxygen deficiency, carbon monoxide, and other air contaminants. Such permissible devices shall be provided and maintained in serviceable and permissible condition. In the detection of flammable gases, a permissible flame safety lamp may be used only as a supplementary testing device.

6. New mandatory standard 57.21–67 is added to read as follows:

57.21–67 Mandatory. All gassy mines shall be ventilated mechanically.

7. New mandatory standard 57.21–68 is added to read as follows:

57.21–68 Mandatory. Airflow shall be maintained in all intake and return air courses of a mine. When multiple main fans are used, such ventilation systems shall not develop neutral areas (areas without perceptible air movement).

8. New mandatory standard 57.21–69 is added to read as follows:

57.21–69 Mandatory. In mines ventilated by a combination of multiple blowing or multiple exhausting main fans, each main fan installation shall be equipped with noncombustible doors designed and positioned so that, in the event of failure of a main fan, these doors will automatically close to prevent air reversal through the fan. The doors shall be located so that they are not in direct line with forces which would come out of the mine, should an explosion occur.

[FR Doc.76–16801 Filed 6–9–76;8:45 am]

federal register

THURSDAY, JUNE 10, 1976




PART VII:

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Office of the Secretary

■

# REAL ESTATE SETTLEMENT PROCEDURES

Special Information Booklet

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Consumer Affairs and Regulatory Functions

[Docket No. N-76-525]

### REAL ESTATE SETTLEMENT PROCEDURES

### Special Information Booklet

The Department of Housing and Urban Development published for comment, (41 FR 20280) a draft of the Special Information Booklet, on settlement costs. This booklet is required, under the Real Estate Settlement Procedures Act of 1974 (Pub. L. 93-533), 12 U.S.C. 2601 et. seq., to be provided at time of loan application to each borrower for a mortgage loan qualifying under RESPA. The booklet contained herein is intended to implement Section 5 of RESPA, "Special Information Booklet" and becomes effective June 30, 1976.

Comments on the booklet were solicited from a variety of sources. In addition, special requests were made to selected industry and consumer groups and individuals. Groups contacted were the United States League of Savings Associations, American Bankers Association, American Land Title Association, American Bar Association, National Association of Realtors, Consumer Federation of America, Consumers Union, Center for the Study of Responsive Law, and Center for National Policy Review. In addition, selected consumer advocates were contacted and their comments were considered. As a result of these comments, numerous technical changes were made in the text of the booklet. A major reordering of textual materials was made. All information dealing with shopping for real estate settlement services was moved to the front of the booklet. Technical discussions were placed towards the end of the booklet.

The Department recognizes that the description of the real estate settlement process contained in the booklet does not describe the procedure followed in each community. Lenders are encouraged to provide applicants a description that particularizes the settlement process for their locality. This may be done in a question and answer format or in a narrative treatment. In this way, many of the misunderstandings may be avoided, a benefit to both lender and consumer. Moreover, over the next year, the Department invites comments from consumers, lenders and others involved in the settlement process as to possible improvements in the booklet. Comment should be sent to the Assistant Secretary for Consumer Affairs and Regulatory Functions; address is provided below.

A major substantive comment, made by almost all groups, was that the booklet, to be fully effective, should be handed to potential home buyers before they sign a contract of sale. Many of the crucial decisions which affect total costs and the allocation of costs as between the buyer and the seller are made when the contract of sale is negotiated between buyer and seller. Most of those commenting recognized that the RESPA legislation only requires that the booklet be provided by lenders to borrowers at the time of loan application, an event which inevitabley comes after the execution of the contract of sale. The Department was encouraged to seek, through various means, the distribution of the booklet at an earlier time than written loan application so that consumers can receive the maximum benefit from this document. Suggestions range from making the booklet available through the Government Printing Office and widely advertising its existence, to seeking the assistance of real estate agents in making the document available to the home buyer before contract execution. The Department will pursue these suggestions. Comment was also made that a second booklet, covering issues concerning the purchase of a home and what should be in a sales contract, be developed by the Department for widespread distribution. This suggestion is under serious consideration by the Department.

It is expected that lenders will secure copies of the booklet from firms that previously provided them with copies of the first Special Information Booklet. To assist in the rapid distribution, the Department will make available to any firm planning to publish the booklet for distribution to lenders a copy of the Special Information Booklet. Firms interested in securing a copy are to send their requests to the Assistant Secretary for Consumer Affairs and Regulatory Functions, Attn: RESPA, Suite 4100, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. The booklet will also be available through the Government Printing Office, North Capitol & H Sts., N.W., Washington, D.C. 20401. Copies can be purchased from that source by early July.

Recognizing the statutory requirement that after June 30, 1976 the lender provide an applicant a copy of the booklet at time of loan application, the Department will allow lenders to reproduce the booklet contained herein for distribution to borrowers for purposes of meeting the statutory requirement. Lenders who select this option are to use the printed booklet as soon as it becomes available through normal sources.

On May 22, 1975 (40 FR 22459) the Department issued a special information booklet which was published along with HUD Real Estate Settlement Procedures Regulations setting forth various procedural and substantive requirements of the Real Estate Settlement Procedures Act of 1974. The Department is hereby publishing the revised booklet to provide appropriate notice of its contents. The text of the Special Information Booklet for the Real Estate Settlement Procedures Act follows:

CONSTANCE B. NEWMAN,
*Assistant Secretary for Consumer Affairs and Regulatory Functions, U.S. Department of Housing and Urban Development.*

# SETTLEMENT COSTS

## A HUD Guide

U.S. Department of Housing and Urban Development
June 1976

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# SETTLEMENT COSTS

## INTRODUCTION

For many people, buying a home is the single most significant financial step of a lifetime. The Real Estate Settlement Procedures Act (RESPA), a Federal statute, helps to protect you at this step.

Settlement is the formal process by which ownership of real property passes from seller to buyer. It is the end of the home buying process, the time when title to the property is transferred from the seller to the buyer.

RESPA covers most residential mortgage loans used to finance the purchase of one to four family properties, such as a house, a condominium or cooperative apartment unit, a lot with a mobile home, or a lot on which you will build a house or place a mobile home using the proceeds of the loan.

RESPA was not designed to set the prices of settlement services. Instead, it provides you with information to take the mystery out of the settlement process, so that you can shop for settlement services and make informed decisions.

This information booklet was prepared as provided in RESPA by the Office of Consumer Affairs and Regulatory Functions of the U.S. Department of Housing and Urban Development.

Part One of this booklet describes the settlement process and nature of charges and suggests questions you might ask of lenders, attorneys and others to clarify what services they will provide you for the charges quoted. It also contains information on your rights and remedies available under RESPA, and alerts you to unfair or illegal practices.

Part Two of this booklet is an item-by-item explanation of settlement services and costs, with sample forms and worksheets that will help you in making cost comparisons. Remember that terminology varies by locality so that terminology used here may not exactly match that used in your area. For example, settlement is sometimes called closing and settlement charges are frequently referred to as closing costs.

## PART I

### WHAT HAPPENS AND WHEN

Suppose you have just found a home you would like to buy. In a typical situation, when you reach an agreement with the seller on the price, you then sign a sales contract. The terms of the sales contract can be negotiated to your benefit, as the booklet explains below.

Next you will probably seek a mortgage to finance the purchase. This booklet suggests questions you should raise as you shop for a lender.

When you file your application for a loan, the lender is required by RESPA to provide a good faith estimate of the costs of settlement services and a copy of this booklet. The lender has three business days, after written loan application, to mail these materials to you.

Between loan application time and settlement, you usually have a chance to shop for settlement services, to ensure that you will obtain good value for your money.

Finally, one business day before settlement, if you so request, the person conducting the settlement must allow you an opportunity to see a Uniform Settlement Statement that shows whatever figures are available at that time for settlement charges you will be required to pay. At settlement, the completed Uniform Settlement Statement will be given to you.

Note: In some parts of the country where there is no actual settlement meeting, or in cases where neither you nor your authorized agent attends the closing meeting, the person conducting settlement has the obligation to deliver the Uniform Settlement Statement to you by mail.

There is no standard settlement process followed in all localities; therefore, what you experience, involving many of the same services, will probably vary from the description in this booklet.

## SHOPPING FOR SERVICES

When settlement arrives, you are committed to the purchase of the property and may have made a partial payment, sometimes called earnest money, to the seller or his agent. Services may have been performed for which you are obligated to pay. Unless a seller fails to perform a legally binding promise or has acted in a fraudulent fashion, you are normally obligated to complete your part of the contract and pay settlement costs. Thus the time to decide the terms of sale, raise questions, and establish fair fees is not at time of settlement, but earlier, when you negotiate with the seller and providers of settlement services. By the time of settlement, any changes in settlement costs and purchase terms may be difficult to negotiate.

You can also negotiate with the seller of the house about who pays various settlement fees and other charges. There are generally no fixed rules about which party pays which fees, although in many cases this is largely controlled by local custom.

Among the many factors that determine the amount you will pay for settlement costs are the location of your new home, the type of sales contract you negotiate, the arrangements made with the real estate broker, the lender you select, and your decisions in selecting the various firms that provide required settlement services.

If the chosen house is located in a "special flood hazard area," identified as such by HUD on a flood insurance map, the lender may require you to purchase flood insurance pursuant to Federal law (See page 23). Information on flood insurance availability, limits of coverage and copies of maps can be obtained through the National Flood Insurers Association servicing company for your State or by calling HUD toll free numbers 800-424-8872 or 73.

Role of the Broker

Although real estate brokers provide helpful advice on many aspects of home buying, and may in some areas supervise the settlement, they normally serve the interests of the seller, not the buyer. The broker's basic objective is to obtain a signed contract of sale which properly expresses the agreement of the parties, and to complete the sale. However, as state licensing laws require that the broker be fair in his dealings with all parties to the transaction, you should feel free to point this out to the broker if you feel you are being treated unfairly.

A broker may recommend that you deal with a particular lender, title company, attorney, or other provider of settlement services. Ask brokers why they recommend a particular company or firm in preference to others. Advise them that while you welcome their suggestions (and, indeed, they probably have good contacts), you reserve the right to pick your own providers of services.

Negotiating a Sales Contract

If you have obtained this booklet before you have signed a sales contract with the seller of the property, here are some important points to consider regarding that contract.

The sales agreement you and the seller sign can expressly state which settlement costs you will pay and which will be paid by the seller although some may be negotiable up to time of settlement. Buyers can and do negotiate with sellers as to which party is to pay for specific settlement costs. The success of such negotiations depends upon factors such as how eager the seller is to sell and you are to buy, the quality of the house itself, how long the house has been on the market, whether other potential buyers are interested, and how willing you are to negotiate for lower costs. If the contract is silent on these costs, they are still open to negotiation.

There is no standard sales contract which you are required to sign. You are entitled to make any modifications or additions in any standard form contract to which the seller will agree. You should consider including the following clauses:

- The seller provides title, free and clear of all liens and encumbrances except those which you specifically agree to in the

contract or approve when the results of the title search are reported to you. You may negotiate as to who will pay for the title search service to determine whether the title is "clear."

. A refund of your deposit (earnest money) be made by the seller or escrow agent, and cancellation of the sale if you are unable to secure from a lending institution a first mortgage or deed-of-trust loan with an amount, interest rate, and length of term, as set forth in the contract, within a stated time period.

. A certificate be provided at time of settlement, stating that the house is free from termites or termite damage.

. A certificate that the plumbing, heating, electrical systems and appliances are in working order, and that the house is structurally sound. Negotiate who pays for any necessary inspections. There is no uniform custom in most areas. Many buyers prefer to pay for these inspections because they want to know that the inspector is conducting the service for them, not for the seller. (You can also purchase a warranty to back up the inspection, if you wish.)

. An agreement be reached on how taxes, water and sewer charges, premiums on existing transferable insurance policies, utility bills, interest on mortgages, and rent (if there are tenants) are to be divided between buyer and seller as of the date of the settlement.

Before you sign the sales contract, make sure that it correctly expresses your agreement with the seller on such important details as the sales price of the home, method of payment, the time set for your taking possession, what fixtures, appliances, and personal property are to be sold with the home, and the other items described above.

The above list is not complete, but does illustrate the importance of the sales agreement and its terms. Before you sign a sales contract you may want to ask an attorney to review the proposed agreement and determine if it protects your interests for once signed, the contract is binding on you and the seller. If you do not know of an attorney you may wish to consult the local bar association referral service or neighborhood legal service office.

Selecting an Attorney

If you seek the aid of an attorney, first ask what services will be performed for what fee. If the fee seems too high, shop for another lawyer. Does the attorney have substantial experience in real estate?

The U. S. Supreme Court has said that it is illegal for bar associations to fix minimum fee schedules for attorneys, so do not be bashful about discussing and shopping for legal fees you can afford. Your attorney will understand.

Questions you may wish to ask the attorney include: What is the charge for reading documents and giving advice concerning them? For being present at settlement? Will the attorney represent any other party in the transaction in addition to you? In some areas attorneys act as closing agents handling the mechanical aspects of the settlement. A lawyer who does this may not fully represent your interests since as closing agent, he would be representing the seller and other interests as well.

Selecting a Lender

Your choice of lender will influence not only your settlement costs, but also the monthly cost of your mortgage loan.

Lending institutions require certain settlement services, such as a new survey or title insurance, or they may charge you for other settlement-related services, such as the appraisal or credit report. You may find, in shopping for a lender, that other institutions may not have such requirements. Part Two of this booklet provides a descriptions of the various kinds of services that may be required and fees that may be charged to you. You will also find a worksheet in Part Two, which you can use to compare requirements and cost estimates from different lenders.

Many lending institutions deal regularly with certain title companies, attorneys, appraisers, surveyors, and others in whom they have confidence. They may want to arrange for settlement services to be provided through these parties. This booklet discusses your rights in such a situation under the section below on Homebuyer's Rights.

If you choose a lending institution which allows you a choice of settlement service providers, you should shop and compare among the providers in your area, to find the best service for the best price. Where the lender designates the use of particular firms, check with other firms to see if the lender's stated charges are competitive.

Questions you may want to ask the lender should include these:

. Are you required to carry life or disability insurance? Must you obtain it from a particular company? (You may prefer no insurance or may wish to obtain it at a better premium rate elsewhere.)

. Is there a late payment charge? How much? How late may your payment be before the charge is imposed? You should be aware that late payments may harm your credit rating.

. If you wish to pay off the loan in advance of maturity (for example, if you move and sell the house), must you pay a prepayment penalty? How much? If so, for how long a period will it apply?

. Will the lender release you from personal liability if your loan is assumed by someone else when you sell your house?

. If you sell the house and the buyer assumes your loan, will the lender have the right to charge an assumption fee, raise the rate of interest, or require payment in full of the mortgage?

. If you have a financial emergency, will the terms of the loan include a future advances clause, permitting you to borrow additional money on the mortgage after you have paid off part of the original loan?

. Will you be required to pay monies into a special reserve (escrow or impound) account to cover taxes or insurance? If so, how large a deposit will be required at the closing of the sale? The amount of reserve deposits required is limited under RESPA. Some recent state laws have required that these accounts bear interest for the benefit of the borrower (buyer). If reserve requirements can be waived, you will be responsible for paying the particular charges for taxes or insurance directly to the tax collector or insurance company. Further information is in "Reserve Accounts" in Part Two of this booklet.

. In looking for the best mortgage to fit your particular financial needs, you may wish to check the terms and requirements of a private conventional loan versus a loan insured through the Federal Housing Administration or Farmers Home Administration or guaranteed by the Veterans Administration. The FHA, VA, and Farmers Home Administration loans involve Federal ceilings on permissible charges for some settlement services, which may be of interest to you. Ask lenders about these programs. Another source of information about the federally insured or guaranteed programs is from public documents some of which are listed in the bibliography of this booklet.

. If you are dealing with the lender who holds the existing mortgage, you might be able to take over the prior loan, in a transaction called "assumption". Assumption usually saves money in settlement costs if the interest rate on the prior loan is lower than that being asked in the market. In times of inflation in the housing market, a higher downpayment might be required than if you had obtained a new loan. You may want to ask the seller whether he would be willing to "take back" a second mortgage to finance part of the difference between the assumed loan and the sales price.

Selecting a Settlement Agent

Settlement practices vary from locality to locality, and even within the same county or city. In various areas settlements are conducted by lending institutions, title insurance companies, escrow companies, real estate brokers, and attorneys for the buyer or seller. By investigating and comparing practices and rates, you may find that the first suggested settlement agent may not be the least expensive. You might save money by taking the initiative in arranging for settlement and selecting the firm and location which meets your needs.

Securing Title Services

A title search may take the form of an abstract, a compilation of pertinent legal documents which provides a condensed history of the property ownership and related matters. In many areas title searches are performed by extracting information from the public record without assembling abstracts. In either situation, an expert examination is necessary to determine the status of title and this is normally made by attorneys or title company employees. In areas where both title insurance companies and attorneys perform these and other settlement services, compare fees for services (such as title certification, document preparation, notary fee, closing fee, etc.), provided by each to determine the better source for these services.

In many jurisdictions a few days or weeks prior to settlement the title insurance company will issue a binder (sometimes called a Commitment to Insure) or preliminary report, a summary of findings based on the search or abstract. It is usually sent to the lender for use until the title insurance policy is issued after the settlement. The binder lists all the defects in and liens against the title identified by the search. You should arrange to have a copy sent to you (or to an attorney who represents you) so that you can raise an objection if there are matters affecting the title which you did not agree to accept when you signed the contract of sale.

Title insurance is often required to protect the lender against loss if a flaw in title is not found by the title search made when the house is purchased. You may also get an owner's title policy to protect yourself. In some states, attorneys provide bar-related title insurance as part of their services in examining title and providing a title opinion. In these states the attorney's fee may include the title insurance premium, although the total title-related charges in the transaction should be taken into account in determining whether you will realize any savings.

Bear in mind that a title insurance policy issued only to the lender does not protect you. Similarly, the policy issued to a prior owner, such as the person from whom you are buying the house, does not protect you. To protect yourself from loss because of a mistake made by the title searcher, or because of a legal defect of a type which does not appear on the public records, you will need an owner's policy. Such a mistake rarely occurs but, when it does, it can be financially devastating to the uninsured. If you buy an owner's policy it is usually much less expensive if purchased simultaneously with a lender's policy.

To reduce title insurance costs, be sure to compare rates among various title insurance companies, and ask what services and limitations on coverage are provided by each policy so that you can decide whether a higher rate is consistent with your needs.

Depending upon practice in your jurisdiction, there may be no need for a full historical title search each time title to a home is transferred. If you are buying a home which has changed hands within the last several years, inquire at the title company that issued the previous title insurance policy about a "reissue rate," which would be a lower charge than for a new policy. If the title insurance policy of the previous owner is available, take it to the title insurer or lawyer whom you have selected to do your search.

To mark the boundaries of the property as set out in the title, lenders may require a survey. A homebuyer may be able to avoid the cost of a repetitive complete survey of the property if he can locate the surveyor who previously surveyed the project which he can update. However, the requirements of investors who buy loans originated by your lender may limit the lender's discretion to negotiate this point. Check with the lender or title company on this.

HOMEBUYER'S RIGHTS

Information Booklet

When you submit or the lender prepares your written application for a loan, the lender is legally required, under RESPA to give you a copy of this booklet.

If the lender does not give it to you in person on the day of your loan application, he must put it in the mail to you no later than three business days after your application is filed.

Good Faith Estimates

When you file your application for a loan, the lender must also, under the terms of RESPA, provide you with good faith estimates of settlement services charges you will likely incur. If he does not give it to you, he has three business days in which to put it in the mail.

See Part Two of this booklet for a full item-by-item discussion of settlement services. On the form entitled "Settlement Statement," you will find Section L, which lists possible settlement services and charges you will encounter.

The lender is required to give you his good faith estimate, based upon his experience in the locality in which the property is located, for each settlement charge in Section L that he anticipates you will pay, except for paid in advance hazard insurance premium (line 903) and reserves deposited with the lender (all Section 1000 items). The estimate may be stated as either a dollar amount or range for each charge. Where the lender designates the use of a particular firm, the lender must make its good faith estimate based upon the lender's knowledge of the amounts charged by the firm. The form used for this good faith estimate must be concise and clear, and the estimates must bear a reasonable relationship to the costs you will likely incur. If the lender provides you good faith estimates in the form of ranges, ask the lender what the total settlement costs will most likely be. While the lender is not obligated to provide this information under RESPA, it is important for you to know as you evaluate the different mortgage packages being offered you.

Lenders were not required to give good faith estimates for reserves deposited with them or for the prepaid hazard insurance premium because these charges require information not normally known to the lender at time of loan application. It is important for you to make these calculations because they can represent a sizeable cash payment you may have to make at settlement. Calculation of the reserve items is presented later in this booklet under "Reserve Accounts." Ask the lender what his policies are in terms of reserve accounts, for what items the lender requires reserves and for what period of time. You may want to ask the lender to run through a hypothetical calculation for you based upon the date you will most likely close on the house. Other assumptions may be necessary, for example, the assessed value of the property for determining property taxes. The lender can probably be more

specific on hazard insurance premiums, particularly for those coverages which a lender requires.

Once you have obtained these estimates from the lender be aware that they are only estimates. The final costs may not be the same. Estimates are subject to changing market conditions, and fees may change. Changes in the date of settlement may result in changes in escrow and proration requirements. In certain cases, it may not be possible for the lender to anticipate exactly the pricing policies of settlements firms. Moreover, your own careful choice of settlement firms might result in lower costs, just as hasty decisions might result in higher costs. Remember that the lender's estimate is not a guarantee.

Lender Designation of Settlement Service Providers

Some lending institutions follow the practice of designating specific settlement service providers to be used for legal services, title examination services, title insurance, or the conduct of settlement.

Where this occurs the lender, under RESPA, is required to provide you as part of the good faith estimates a statement in which the lender sets forth:

(1) The name, address and telephone number of each provider he has designated. This must include a statement of the specific services each designated firm is to provide for you, as well as an estimate of the amount the lender anticipates you will have to pay for the service, based on the lender's experience as to what the designated provider usually charges. If the services or charges are not clear to you, ask further questions.

(2) Whether each designated firm has a business relationship with the lender.

While designated firms often provide the services needed, a conflict of interest may exist. Take for example the situation where the provider must choose between your interests and those of the lender. Where legal services are involved, it is wise to employ your own attorney to ensure that your interests are properly protected. It is wise for you to contact other firms to determine whether their costs are competitive and their services are comparable.

Disclosure of Settlement Costs One Day Before Closing and Delivery

One business day before settlement, you have the right to inspect the form, called the Uniform Settlement Statement, on which are itemized the services provided to you and fees charged to you.

This form (developed by the U.S. Department of Housing and Urban Development) is filled out by the person who will conduct the settlement meeting. Be sure you have the name, address, and telephone number of the settlement agent if you wish to inspect this form or if you have any questions.

The settlement agent may not have all costs available the day before closing, but is obligated to show you, upon request, what is available.

The Uniform Settlement Statement must be delivered or mailed to you (while another statement goes to the seller) at or before settlement. If, however, you waive your right to delivery of the completed statement at settlement, it will then be mailed at the earliest practicable date.

In parts of the country where the settlement agent does not require a meeting, or in cases where you or your agent do not attend the settlement, the statement will be mailed as soon as practicable after settlement and no advance inspection is required.

The Uniform Settlement Statement is not used in situations where: (1) there are no settlement fees charged to the buyer (because the seller has assumed all settlement-related expenses), or (2) the total amount the borrower is required to pay for all charges imposed at settlement is determined by a fixed amount and the borrower is informed of this fixed amount at the time of loan application. In the latter case, the lender is required to provide the borrower, within three business days of application, an itemized list of services rendered.

Escrow Closing

Settlement practices differ from state to state. In some parts of the country, settlement may be conducted by an escrow agent, which may be a lender, real estate agent, title company representative, attorney, or an escrow company. After entering into a contract of sale, the parties sign an escrow agreement which requires them to deposit specified documents and funds with the agent. Unlike other types of closing, the parties do not meet around a table to sign and exchange documents. The agent may request a title report and policy; draft a deed or other documents; obtain rent statements; pay off existing loans; adjust taxes, rents, and insurance between the buyer and seller; compute interest on loans; and acquire hazard insurance. All this may be authorized in the escrow agreement. If all the papers and monies are deposited with the agent within the agreed time, the escrow is "closed".

The escrow agent then records the appropriate documents and gives each party the documents and money each is entitled to receive, including the completed Uniform Settlement Statement. If one party has failed to fulfill his agreement, the escrow is not closed and legal complications may follow.

Truth-in-Lending

The lender is required to provide you a Truth-in-Lending statement by the time of loan consummation which disclosed the annual percentage rate or effective interest rate which you will pay on your mortgage loan. This rate may be higher than the contract interest rate because the latter includes only interest, while the annual percentage rate includes discount points, fees, and financing charges and certain other charges besides on the loan. The Truth-in-Lending statement will also disclose any additional charges for prepayment should you pay off the remaining balance of the mortgage before it is due.

Lenders are not required to provide you a Truth-in-Lending disclosure at the time of loan application, when the good faith estimate of settlement costs and this informational booklet are given to you. However, since the annual percentage rate the lender will be charging you is an important item of information which you can use as you shop for services, you may want to request its disclosure at time of loan application.

Protection Against Unfair Practices

A principal finding of Congress in the Real Estate Settlement Procedures Act of 1974 is that consumers need protection from "...unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country." The potential problems discussed below may not be applicable to most loan settlements, and the discussion is not intended to deter you from buying a home. Most professionals in the settlement business will give you good service. Nevertheless, you may save yourself money and worry by keeping the following considerations in mind:

Kickbacks. Kickbacks and referrals of business for gain are often tied together. The law prohibits anyone from giving or taking a fee, kickback, or anything of value under an agreement that business will be referred to a specific person or organization. It is also illegal to charge or accept a fee or part of a fee where no service has actually been performed. This requirment does not prevent agents for lenders and title companies, attorneys, or others actually performing a service in connection with the mortgage loan or settlement transaction, from receiving compensation for their work. It also does not prohibit payments pursuant to cooperative brokerage, such as a multiple listing service, and referral arrangements or agreements between real estate agents and brokers.

The prohibition is aimed primarily at eliminating the kind of arrangement in which one party agrees to return part of his

fee in order to obtain business from the referring party. The danger is that some settlement fees can be inflated to cover payments to this additional party, resulting in a higher total cost to you. There are criminal penalties of both fine and imprisonment for any violation of these provisions of law. There are also provisions for you to recover three times the amount of the kickback, rebate, or referral fee involved, through a private lawsuit. In any successful action to enforce your right, the court may award you court costs together with a fee for your attorney.

Title Companies. Under the law, the seller may not require, as a condition of sale, that title insurance be purchased by the buyer from any particular title company. A violation of this will make the seller liable to you in an amount equal to three times all charges made for the title insurance.

Fair Credit Reporting. There are credit reporting agencies around the nation which are in the business of compiling credit reports on citizens, covering data such as how you pay your bills, if you have been sued, arrested, filed for bankruptcy, etc.. In addition, this file may include your neighbors' and friends' views of your character, general reputation, or manner of living. This latter information is referred to as an "investigative consumer report."

The Fair Credit Reporting Act does not give you the right to inspect or physically handle your actual report at the credit reporting agency, nor to receive an exact copy of the report. But you are entitled to a summary of the report, showing the nature, substance, and sources of the information it contains.

If the terms of your financing have been adversely affected by a credit report, you have the right to inspect the summary of that report free of charge (there may otherwise be a small fee). The accuracy of the report can also be challenged, and corrections required to be made. For more detailed information on your credit report rights, contact the Federal Trade Commission (FTC) in Washington, D. C. or the nearest FTC regional office. The FTC Buyer's Guide No. 7: Fair Credit Reporting Act is a good summary of this Act.

The Right to File Complaints

As with any consumer problems, the place to start if you have a complaint is back at the source of the problem (the lender, settlement agent, broker, etc.). If that initial effort brings no satisfaction and you think you have suffered damages through violations of the Real Estate Settlement Procedures Act of 1974, as amended, you may be entitled to bring a civil action in the U.S. District Court for the District in which the property involved is located, or in any

other court of competent jurisdiction. This is a matter best determined by your lawyer. Any suit you file under RESPA must be brought within one year from the date of the occurrence of the alleged violation. You may have legal remedies under other State or Federal laws in addition to RESPA.

You should note that RESPA provides for specific legal sanctions only under the provisions which prohibit kickbacks and unearned fees, and which prohibit the seller from requiring the buyer to use a particular title insurer. If you feel you should recover damages for violations of any provision of RESPA, you should consult your lawyer.

Most settlement service providers, particularly lenders, are supervised by some governmental agency at the local, State and/or Federal level. Others are subject to the control of self-policing associations. If you feel a provider of settlement services has violated RESPA, you can address your complaint to the agency or association which has supervisory responsibility over the provider. The supervisory agency for the lending institution is provided on the back cover of this booklet. If the lender has given you this information elsewhere, he is not required to provide it here. For the names of agencies supervising other providers, you will have to check with local and State consumer agencies. You are also encouraged to forward a copy of complaints regarding RESPA violations to the HUD Office of Consumer Affairs and Regulatory Functions, which has the primary responsibility for administering the RESPA program. Your complaints can lay the foundation for future legislative or administrative actions.

Send copies of complaints, and inquiries, to:

Assistant Secretary for Consumer Affairs and
Regulatory Functions
Attention: RESPA Office
U.S. Department of Housing and Urban Development
451 7th Street, S.W.
Room 4100
Washington, D.C. 20410

## THE HOMEBUYER'S OBLIGATIONS (REPAYMENT OF LOAN AND MAINTENANCE OF HOME)

At settlement you will sign papers legally obligating you to pay the mortgage loan financing the purchase of your home. You must pay according to the terms of the loan - interest rate, amount and due date of each monthly payment, repayment period - specified in the documents signed by you. You will probably sign at settlement a note or bond which is your promise to repay the loan for the unpaid balance of the purchase price. You will also sign a mortgage or deed of trust which pledges your home as security for repayment of the loan.

Failure to make monthly mortgage payments on time may lead to a late payment charge, if provided for in the documents. If you default on the loan by missing payments altogether and do not make them up within a period of time usually set by State law, the documents also specify certain actions which the lender may take to recover the amount owed. Ultimately, after required notice to you, a default could lead to foreclosure and sale of the home which secures your loan.

You should also be careful to maintain your home in a proper state of repair, both for your own satisfaction and comfort as the occupant and because the home is security for your loan. The mortgage or deed of trust may in fact specifically obligate you to keep the property in good repair and not allow deterioration.

Read the documents carefully at or before settlement, and be aware of your obligations as a homeowner.

## PART TWO

This part of the booklet provides an item-by-item discussion of possible settlement services that may be required and for which you may be charged. It also provides a sample of the Uniform Settlement Statement form, and worksheets which you may find handy for comparing costs from different service providers.

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A.

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## SETTLEMENT STATEMENT

B. TYPE OF LOAN

1. ☐ FHA 2. ☐ FmHA 3. ☐ CONV. UNINS.
4. ☐ VA 5. ☐ CONV. INS.

6. File Number:

7. Loan Number:

8. Mortgage Insurance Case Number:

C. NOTE: *This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.*

| D. NAME OF BORROWER: | E. NAME OF SELLER: | F. NAME OF LENDER: |
|---|---|---|
| | | |

| G. PROPERTY LOCATION: | H. SETTLEMENT AGENT: | I. SETTLEMENT DATE: |
|---|---|---|
| | PLACE OF SETTLEMENT: | |

| J. SUMMARY OF BORROWER'S TRANSACTION | | K. SUMMARY OF SELLER'S TRANSACTION | |
|---|---|---|---|
| *100. GROSS AMOUNT DUE FROM BORROWER:* | | *400. GROSS AMOUNT DUE TO SELLER:* | |
| 101. Contract sales price | | 401. Contract sales price | |
| 102. Personal property | | 402. Personal property | |
| 103. Settlement charges to borrower *(line 1400)* | | 403. | |
| 104. | | 404. | |
| 105. | | 405. | |
| *Adjustments for items paid by seller in advance* | | *Adjustments for items paid by seller in advance* | |
| 106. City/town taxes to | | 406. City/town taxes to | |
| 107. County taxes to | | 407. County taxes to | |
| 108. Assessments to | | 408. Assessments to | |
| 109. | | 409. | |
| 110. | | 410. | |
| 111. | | 411. | |
| 112. | | 412. | |
| *120. GROSS AMOUNT DUE FROM BORROWER* | | *420. GROSS AMOUNT DUE TO SELLER* | |
| *200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:* | | *500. REDUCTIONS IN AMOUNT DUE TO SELLER:* | |
| 201. Deposit or earnest money | | 501. Excess deposit *(see instructions)* | |
| 202. Principal amount of new loan(s) | | 502. Settlement charges to seller *(line 1400)* | |
| 203. Existing loan(s) taken subject to | | 503. Existing loan(s) taken subject to | |
| 204. | | 504. Payoff of first mortgage loan | |
| 205. | | 505. Payoff of second mortgage loan | |
| 206. | | 506. | |
| 207. | | 507. | |
| 208. | | 508. | |
| 209. | | 509. | |
| *Adjustments for items unpaid by seller* | | *Adjustments for items unpaid by seller* | |
| 210. City/town taxes to | | 510. City/town taxes to | |
| 211. County taxes to | | 511. County taxes to | |
| 212. Assessments to | | 512. Assessments to | |
| 213. | | 513. | |
| 214. | | 514. | |
| 215. | | 515. | |
| 216. | | 516. | |
| 217. | | 517. | |
| 218. | | 518. | |
| 219. | | 519. | |
| *220. TOTAL PAID BY/FOR BORROWER* | | *520. TOTAL REDUCTION AMOUNT DUE SELLER* | |
| *300. CASH AT SETTLEMENT FROM/TO BORROWER* | | *600. CASH AT SETTLEMENT TO/FROM SELLER* | |
| 301. Gross amount due from borrower *(line 120)* | | 601. Gross amount due to seller *(line 420)* | |
| 302. Less amounts paid by/for borrower *(line 220)* | ( ) | 602. Less reductions in amount due seller *(line 520)* | ( ) |
| *303. CASH ( ☐ FROM) ( ☐ TO) BORROWER* | | *603. CASH ( ☐ TO) (☐ FROM ) SELLER* | |

| L. SETTLEMENT CHARGES | | |
|---|---|---|
| *700. TOTAL SALES/BROKER'S COMMISSION based on price $ @ % =* | PAID FROM BORROWER'S FUNDS AT SETTLEMENT | PAID FROM SELLER'S FUNDS AT SETTLEMENT |
| *Division of Commission (line 700) as follows:* | | |
| 701. $ to | | |
| 702. $ to | | |
| 703. Commission paid at Settlement | | |
| 704. | | |
| *800. ITEMS PAYABLE IN CONNECTION WITH LOAN* | | |
| 801. Loan Origination Fee % | | |
| 802. Loan Discount % | | |
| 803. Appraisal Fee to | | |
| 804. Credit Report to | | |
| 805. Lender's Inspection Fee | | |
| 806. Mortgage Insurance Application Fee to | | |
| 807. Assumption Fee | | |
| 808. | | |
| 809. | | |
| 810. | | |
| 811. | | |
| *900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE* | | |
| 901. Interest from to @ $ /day | | |
| 902. Mortgage Insurance Premium for months to | | |
| 903. Hazard Insurance Premium for years to | | |
| 904. years to | | |
| 905. | | |
| *1000. RESERVES DEPOSITED WITH LENDER* | | |
| 1001. Hazard insurance months @ $ per month | | |
| 1002. Mortgage insurance months @ $ per month | | |
| 1003. City property taxes months @ $ per month | | |
| 1004. County property taxes months @ $ per month | | |
| 1005. Annual assessments months @ $ per month | | |
| 1006. months @ $ per month | | |
| 1007. months @ $ per month | | |
| 1008. months @ $ per month | | |
| *1100. TITLE CHARGES* | | |
| 1101. Settlement or closing fee to | | |
| 1102. Abstract or title search to | | |
| 1103. Title examination to | | |
| 1104. Title insurance binder to | | |
| 1105. Document preparation to | | |
| 1106. Notary fees to | | |
| 1107. Attorney's fees to | | |
| *(includes above items numbers; )* | | |
| 1108. Title insurance to | | |
| *(includes above items numbers; )* | | |
| 1109. Lender's coverage $ | | |
| 1110. Owner's coverage $ | | |
| 1111. | | |
| 1112. | | |
| 1113. | | |
| *1200. GOVERNMENT RECORDING AND TRANSFER CHARGES* | | |
| 1201. Recording fees: Deed $ ; Mortgage $ ; Releases $ | | |
| 1202. City/county tax/stamps: Deed $ ; Mortgage $ | | |
| 1203. State tax/stamps: Deed $ ; Mortgage $ | | |
| 1204. | | |
| 1205. | | |
| *1300. ADDITIONAL SETTLEMENT CHARGES* | | |
| 1301. Survey to | | |
| 1302. Pest inspection to | | |
| 1303. | | |
| 1304. | | |
| 1305. | | |
| *1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)* | | |

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| SETTLEMENT COSTS WORK SHEET *(Use this worksheet to compare the charges of various lenders and providers of settlement services.* | *PROVIDER 1* | *PROVIDER 2* | *PROVIDER 3* |
|---|---|---|---|
| *800. ITEMS PAYABLE IN CONNECTION WITH LOAN:* | | | |
| 801. Loan Origination Fee % | | | |
| 802. Loan Discount % | | | |
| 803. Appraisal Fee to | | | |
| 804. Credit Report to | | | |
| 805. Lender's Inspection Fee | | | |
| 806. Mortgage Insurance Application Fee to | | | |
| 807. Assumption Fee | | | |
| 808. | | | |
| 809. | | | |
| 810. | | | |
| 811. | | | |
| *900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE:* | | | |
| 901. Interest from to @ $ per day | | | |
| 902. Mortgage Insurance Premium for months to | | | |
| 903. Hazard Insurance Premium for years to | | | |
| 904. years to | | | |
| 905. | | | |
| *1000. RESERVES DEPOSITED WITH LENDER:* | | | |
| 1001. Hazard Insurance months @ $ per month | | | |
| 1002. Mortgage Insurance months @ $ per month | | | |
| 1003. City property taxes months @ $ per month | | | |
| 1004. County property taxes months @ $ per month | | | |
| 1005. Annual assessments months @ $ per month | | | |
| 1006. months @ $ per month | | | |
| 1007. months @ $ per month | | | |
| 1008. months @ $ per month | | | |
| *1100. TITLE CHARGES:* | | | |
| 1101. Settlement or closing fee to | | | |
| 1102. Abstract or title search to | | | |
| 1103. Title examination to | | | |
| 1104. Title insurance binder to | | | |
| 1105. Document preparation to | | | |
| 1106. Notary fees to | | | |
| 1107. Attorney's fees to | | | |
| *(includes above items numbers;)* | | | |
| 1108. Title insurance to | | | |
| *(includes above items numbers;)* | | | |
| 1109. Lender's coverage $ | | | |
| 1110. Owner's coverage $ | | | |
| 1111. | | | |
| 1112. | | | |
| 1113. | | | |
| *1200. GOVERNMENT RECORDING AND TRANSFER CHARGES:* | | | |
| 1201. Recording fees: Deed $ ; Mortgage $ ; Releases $ | | | |
| 1202. City/county tax/stamps: Deed $ ;Mortgage $ | | | |
| 1203. State tax/stamps: Deed $ ; Mortgage $ | | | |
| 1204. | | | |
| 1205. | | | |
| *1300. ADDITIONAL SETTLEMENT CHARGES:* | | | |
| 1301. Survey to | | | |
| 1302. Pest inspection to | | | |
| 1303. | | | |
| 1304. | | | |
| 1305. | | | |
| *1400. TOTAL SETTLEMENT CHARGES.....* | | | |

Sections A through I of the Uniform Settlement Statement contain information concerning the loan and parties to the settlement. Sections J and K contain a summary of all funds transferred between the buyer, seller, lender, and providers of settlement services. The bottom line in the left-hand column shows the net cash to be paid by the borrower, while the bottom line in the right-hand column shows the cash due the seller.

Section L is a list of settlement services that may be required and for which you may be charged. Blank lines are provided for any additional settlement services.

You would add up the costs entered on the lines of Section L, and carry them forward to Sections J and K, in order to arrive at the net cash figures on the bottom lines of the left and right columns.

Uses of This Form

(1) Settlement services comparisons. As you shop for settlement services, you can use the Settlement Costs Worksheet as a handy guide, noting on it the different services required by different lenders and the different fees quoted by different service providers.

(2) Disclosure of actual settlement costs. A copy of this form, or one with similar terminology, sequence and numbering of line items, must be filled out by the person conducting the settlement meeting. Your right to inspect the form one business day before settlement was discussed earlier in this booklet. The form will be completely filled in at the settlement meeting.

SPECIFIC SETTLEMENT SERVICES

The following defines and discusses each specific settlement service. The numbers correspond to the items listed in Section L of the Uniform Settlement Statement form.

700. SALES/BROKER'S COMMISSION — This is the total dollar amount of sales commission, usually paid by the seller. Fees are usually a percentage of the selling price of the house, and are intended to compensate brokers

or salesmen for their services. Custom and/or the negotiated agreement between the seller and the broker determine the amount of the commission.

701-702. Division of Commission

If several brokers or salesmen work together to sell the house, the commission may be split among them. If they are paid from funds collected for settlement, this is shown on lines 701-702.

703. Commission Paid at Settlement

Sometimes the broker will retain the earnest money deposit to apply towards his commission. In this case, line 703 will show only the remainder of the commission which will be paid at settlement.

800. ITEMS PAYABLE IN CONNECTION WITH LOAN

These are the fees which lenders charge to process, approve and make the mortgage loan.

801. Loan Origination

This fee covers the lender's administrative costs in processing the loan. Often expressed as a percentage of the loan, the fee will vary among lenders and from locality to locality. Generally the buyer pays the fee unless another arrangement has been made with the seller and written into the sales contract.

802. Loan Discount

Often called "points, " a loan discount is a one-time charge used to adjust the yield on the loan to what market conditions demand. It is used to offset constraints placed on the yield by state or federal regulations. Each "point" is equal to

one percent of the mortgage amount. For example, if a lender charges four points on a $30,000 loan this amounts to a charge of $1,200.

803. Appraisal Fee

This charge, which may vary significantly from transaction to transaction, pays for a statement of property value for the lender, made by an independent appraiser or by a member of the lender's staff. The lender needs to know if the value of the property is sufficient to secure the loan if you fail to repay the loan according to the provision of your mortgage contract, and the lender must foreclose and take title to the house. The appraiser inspects the house and the neighborhood, and considers sales prices of comparable houses and other factors in determining the value. The appraisal report may contain photos and other information of value to you. It will provide the factual data upon which the appraiser based the appraised value. Ask the lender for a copy of the appraisal report or review the original.

The appraisal fee may be paid by either the buyer or the seller, as agreed in the sales contract. In some cases this fee is included in the Mortgage Insurance Application Fee. See line 806.

804. Credit Report Fee

This fee covers the cost of the credit report, which shows how you have handled other credit transactions. The lender uses this report in conjunction with information you submitted with the application regarding your income, outstanding bills, and employment, to determine whether

you are an acceptable credit risk and to help determine how much money to lend you.

Where you encounter credit reporting problems you have protections under the Fair Credit laws as summarized under "Homebuyer's Rights" in this booklet.

805. Lender's Inspection Fee

This charge covers inspections, often of newly constructed housing, made by personnel of the lending institution or an outside inspector. (Pest or other inspections made by companies other than the lender are discussed in connection with line 1302).

806. Mortgage Insurance Application Fee

This fee covers processing the application for private mortgage insurance which may be required on certain loans. It may cover both the appraisal and application fee.

807. Assumption Fee

This fee is charged for processing papers for cases in which the buyer takes over payments on the prior loan of the seller.

900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE

You may be required to prepay certain items, such as interest, mortgage insurance premium and hazard insurance premium, at the time of settlement.

901. Interest

Lenders usually require that borrowers pay at settlement the interest that accrues on the mortgage from the date of settlement to the beginning of the period covered by the first monthly payment. For example, suppose your settlement takes place on April 16, and your first

regular monthly payment will be due June 1, to cover interest charges for the month of May. On the settlement date, the lender will collect interest for the period from April 16 to May 1. If you borrowed $30,000 at 9% interest, the interest item would be $112.50. This amount will be entered on line 901.

902. Mortgage Insurance Premium

Mortgage insurance protects the lender from loss due to payment default by the home owner. The lender may require you to pay your first premium in advance, on the day of settlement. The premium may cover a specific number of months or a year in advance. With this insurance protection, the lender is willing to make a larger loan, thus reducing your downpayment requirements. This type of insurance should not be confused with mortgage life, credit life, or disability insurance designed to pay off a mortgage in the event of physical disability or death of the borrower.

903. Hazard Insurance Premium

This premium prepayment is for insurance protection for you and the lender against loss due to fire, windstorm, and natural hazards. This coverage may be included in a Homeowners Policy which insures against additional risks which may include personal liability and theft. Lenders often require payment of the first year's premium at settlement.

A hazard insurance or homeowner's policy may not protect you against loss caused by flooding. In special flood-prone areas identified by HUD, you may be required

by federal law to carry flood insurance on your home. Such insurance may be purchased at low federally subsidized rates in participating communities under the National Flood Insurance Act.

1000. RESERVES DEPOSITED WITH LENDERS

Reserves (sometimes called "escrow" or "impound" accounts) are funds held in an account by the lender to assure future payment for such recurring items as real estate taxes and hazard insurance.

You will probably have to pay an initial amount for each of these items to start the reserve account at the time of settlement. A portion of your regular monthly payments will be added to the reserve account. RESPA places limitations on the amount of reserve funds which may be required by the lender. Read "Reserve Accounts" in this booklet for reserve calculation procedures. Do not hesitate to ask the lender to explain any variance between your own calculations and the figure presented to you.

1001. Hazard Insurance

The lender determines the amount of money that must be placed in the reserve in order to pay the next insurance premium when due.

1002. Mortgage Insurance

The lender may require that part of the total annual premium be placed in the reserve account at settlement. The portion to be received in reserve may be negotiable.

1003-1004. City/County Property Taxes

The lender may require a regular monthly payment to the reserve account for property taxes.

1005. Annual Assessments

This reserve item covers assessments that may be imposed by subdivisions or municipalities for special improvements (such as sidewalks, sewers or paving) or fees (such as homeowners association fees).

1100. TITLE CHARGES

Title charges may cover a variety of services performed by the lender or others for handling and supervising the settlement transaction and services related thereto. The specific charges discussed in connection with lines 1101 through 1109 are those most frequently incurred at settlement. Due to the great diversity in practice from area to area, your particular settlement may not include all these items or may include others not listed. Ask your settlement agent to explain how these fees relate to services performed on your behalf. An extended discussion is presented in "Securing Title Services" earlier in this booklet.

1101. Settlement or Closing Fee

This fee is paid to the settlement agent. Responsibility for payment of this fee should be negotiated between the seller and buyer, at the time the sales contract is signed.

1102-1104. Abstract or Title Search, Title Examination, Title Insurance Binder

These charges cover the costs of the search and examination of records of previous ownership, transfers, etc., to determine whether the seller can convey clear title to the property, and to disclose any matters on record that could adversely affect the

buyer or the lender. Examples of title problems are unpaid mortgages, judgment or tax liens, conveyances of mineral rights, leases, and power line easements or road right-of-ways that could limit use and enjoyment of the real estate. In some areas, a title insurance binder is called a commitment to insure.

1105. Document Preparation

There may be a separate document fee that covers preparation of final legal papers, such as a mortgage, deed of trust, note, or deed. You should check to see that these services, if charged for, are not also covered under some other service fees, ask the settlement agent.

1106. Notary Fee

This fee is charged for the cost of having a licensed person affix his or her name and seal to various documents authenticating the execution of these documents by the parties.

1107. Attorney's Fees

You may be required to pay for legal services provided to the lender in connection with the settlement, such as examination of the title binder or sales contract. Occasionally this fee can be shared with the seller, if so stipulated in the sales contract. If a lawyer's involvement is required by the lender, the fee will appear on this part of the form. The buyer and seller may each retain an attorney to check the various documents and to represent them at all stages of the transaction including settlement. Where this service is not required and is paid for outside of closing, the person conducting settlement is not obligated to record the fee on the settlement form.

1108. Title Insurance

The total cost of owner's and lender's title insurance is shown here. The borrower may pay all, a part or none of this cost depending on the terms of the sales contract or local custom.

1109. Lender's Title Insurance

A one-time premium may be charged at settlement for a lender's title policy which protects the lender against loss due to problems or defects in connection with the title. The insurance is usually written for the amount of the mortgage loan and covers losses due to defects or problems not identified by title search and examination. In most areas this is customarily paid by the borrower unless the seller agrees in the sales contract to pay part or all of it.

1110. Owner's Title Insurance

This charge is for owner's title insurance protection and protects you against losses due to title defects. In some areas it is customary for the seller to provide the buyer with an owner's policy and for the seller to pay for this policy. In other areas, if the buyer desires an owner's policy he must pay for it.

1200. GOVERNMENT RECORDING AND TRANSFER CHARGES

These fees may be paid either by borrower or seller, depending upon your contract when you buy the house or accept the loan commitment. The borrower usually pays the fees for legally recording the new deed and mortgage (item 1201). These fees, collected when property changes hands or when a mortgage loan is made, may be quite large and are set by state and/or local governments. City, county and/or state tax stamps may have to be purchased as well (item 1201 and 1203).

1300. ADDITIONAL SETTLEMENT CHARGES

1301. Survey

The lender or the title insurance company may require that a surveyor conduct a property survey to determine the exact location of the house and the lot line, as well as easements and rights of way. This is a protection to the buyer as well. Usually the buyer pays the surveyor's fees, but sometimes this may be handled by the seller.

1302. Pest and Other Inspections

This fee is to cover inspections for termite or other pest infestation of the house. This may be important if the sales contract included a promise by the seller to transfer the property free from pests or pest-caused damage. Be sure that the inspection shows that the property complies with the sales contract before you complete the settlement. If it does not you may wish to require a bond or other financial assurance that the work will be completed. This fee can be paid either by the borrower or seller depending upon the terms of the sales contract. Lenders vary in their requirements as to such an inspection.

Fees for other inspections, such as for structural soundness, are entered on line 1303.

1400. TOTAL SETTLEMENT CHARGES

All the fees in the borrower's column entitled "Paid from Borrower's Funds at Settlement" are totaled here and transferred to line 103 of Section J, "Settlement charges to borrower" in the Summary of Borrower's Transaction on page 1

of the Uniform Settlement Statement. All the settlement fees paid by the seller are transferred to line 502 of Section K, Summary of Seller's Transaction on page 1 of the Uniform Settlement Statement.

COMPARING LENDER COSTS

If a lender is willing to reduce his fees for such items as loan origination, discount points and other one-time settlement charges, he may gain it back if he charges a higher mortgage interest rate.

Here is one rule of thumb which you can use to calculate the combined effect of the interest rate on your loan and the one-time settlement charges (paid by you) such as "points." While not perfectly accurate, it is usually close enough for meaningful comparisons between lenders. The rule is, that one-time settlement charges equaling one percent of the loan amount increase the interest charge by one-eighth(1/8) of one percent. The 1/8 factor corresponds to pay a back period of approximately 15 years. If you intend instead to hold the property for only five years and pay off the loan at that time, the factor increases to 1/4.

Here is an example of the rule. Consider only those charges that differ between lenders. Suppose you wish to borrow $30,000. Lender A will make the loan at 8.5 percent interest, but charges a two percent origination fee, a $150.00 application fee, and requires that you use a lawyer, for title work, selected by the lender at a fee of $300.

Lender B will make the loan at 9 percent interest, but has no additional requirements or charges. As part of that nine percent interest, though, Lender B will not charge an application fee and will absorb the lawyer's fee. What are the actual charges for each case?

Begin by relating all of Lender A's one-time charges to percentages of the $30,000 loan amount:

| | | |
|---|---|---|
| 2 percent origination fee | = | 2 percent of loan amount |
| $150 application fee | = | 0.5 percent of loan amount |
| $300 lawyer's fee | = | 1 percent of loan amount |
| Total | = | 3.5 percent of loan amount |

Since each 1 percent of the loan amount in charges is the equivalent of 1/8 percent increase in interest, the effective interest

rate from Lender A is the quoted or "contract" interest rate, 8.5 percent plus .44 percent (3.5 times 1/8), or a total of 8.94 percent interest. Since Lender B has offered a nine percent interest rate, Lender A has made a more attractive offer. Of course, it is more attractive only if you have sufficient cash to pay Lender A's one-time charges and still cover your downpayment, moving expenses, and other settlement costs. This is simply a method to compare diverse costs on an equal basis. In the above illustration, Lender A does not receive the $300 lawyer fee.

The calculation is sensitive to your assumption about the period of time you plan to own the house before paying off the mortgage. As indicated above, the factor increases to 1/4 if you expect to pay off the mortgage in five years. Applying this new factor to the above illustration, the effective interest rate for Lender A would be 8.5 percent plus .87 (3.5 x 1/4) for a total of 9.37 percent interest. Lender A's offer is no longer more attractive than Lender B's which was 9.0 percent.

In doing these calculations you should also be careful as to which one time fees you place into the calculation. For example, if Lender B in the above illustration did not include in his charge a legal fee but told you that you had to secure legal services in order to obtain the loan from him, you would have to add to Lender B's interest rate the legal fee that you had to incur.

You can use this method to compare the effective interest rates of any number of lenders as you shop for a loan. If the lenders have provided Truth-in-Lending disclosures, these are even a better comparative tool. You should question lenders carefully to make sure you have learned of all the charges they intend to make. The good faith estimate you receive when you make a loan application is a good checklist for this information, but it is not precise. Thus, you should ask the lender how the charges and fees are computed.

CALCULATING THE BORROWER'S TRANSACTIONS 31

A Sample Worksheet

This page is a sample worksheet for a family purchasing a $35,000 house and getting a new $30,000 loan. Line 103 assumes that their total settlement charges are $1000. (This figure is the sum of all the individual settlement charges, which will be listed in detail in Section L, of their Uniform Settlement Statement.) The $1000 figure is merely illustrative. The amount may be higher in some areas and for some types of transactions, and lower for others.

| J. SUMMARY OF BORROWER'S TRANSACTION | |
|---|---|
| *100. GROSS AMOUNT DUE FROM BORROWER:* | |
| 101. Contract sales price | 35,000.00 |
| 102. Personal property | 200.00 |
| 103. Settlement charges to borrower *(line 1400)* | 1,000.00 |
| 104. | |
| 105. | |
| *Adjustments for items paid by seller in advance* | |
| 106. City/town taxes to | |
| 107. County taxes to | |
| 108. Assessments 6-30 to 7-31 (owners assn) | 20.00 |
| 109. Fuel oil 25 to gal. @ .50/gal | 12.50 |
| 110. | |
| 111. | |
| 112. | |
| 120. GROSS AMOUNT DUE FROM BORROWER | 36,232.50 |
| *200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:* | |
| 201. Deposit or earnest money | 1,000.00 |
| 202. Principal amount of new loan(s) | 30,000.00 |
| 203. Existing loan(s) taken subject to | |
| 204. | |
| 205. | |
| 206. | |
| 207. | |
| 208. | |
| 209. | |
| *Adjustments for items unpaid by seller* | |
| 210. City/town taxes to | |
| 211. County taxes 1-1 to 6-30 @$600/yr | 300.00 |
| 212. Assessments 1-1 to 6-30 @$100/yr | 50.00 |
| 213. | |
| 214. | |
| 215. | |
| 216. | |
| 217. | |
| 218. | |
| 219. | |
| 220. TOTAL PAID BY/FOR BORROWER | 31,350.00 |
| *300. CASH AT SETTLEMENT FROM/TO BORROWER* | |
| 301. Gross amount due from borrower *(line 120)* | 36,232.50 |
| 302. Less amounts paid by/for borrower *(line 220)* | (31,350.00) |
| 303. CASH (☒ FROM) (☐ TO) BORROWER | 4,882.50 |

Your Financial Worksheet

Once you have decided which providers you wish to use for your settlement services and have selected the lender who will make your loan, you can calculate the total estimated cash you will need to complete the purchase. The form below, which is a part of the Uniform Settlement Statement, can be used as a worksheet for this purpose.

| J. SUMMARY OF BORROWER'S TRANSACTION | |
|---|---|
| *100. GROSS AMOUNT DUE FROM BORROWER:* | |
| 101. Contract sales price | |
| 102. Personal property | |
| 103. Settlement charges to borrower *(line 1400)* | |
| 104. | |
| 105. | |
| *Adjustments for items paid by seller in advance* | |
| 106. City/town taxes to | |
| 107. County taxes to | |
| 108. Assessments to | |
| 109. | |
| 110. | |
| 111. | |
| 112. | |
| *120. GROSS AMOUNT DUE FROM BORROWER* | |
| *200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:* | |
| 201. Deposit or earnest money | |
| 202. Principal amount of new loan(s) | |
| 203. Existing loan(s) taken subject to | |
| 204. | |
| 205. | |
| 206. | |
| 207. | |
| 208. | |
| 209. | |
| *Adjustments for items unpaid by seller* | |
| 210. City/town taxes to | |
| 211. County taxes to | |
| 212. Assessments to | |
| 213. | |
| 214. | |
| 215. | |
| 216. | |
| 217. | |
| 218. | |
| 219. | |
| *220. TOTAL PAID BY/FOR BORROWER* | |
| *300. CASH AT SETTLEMENT FROM/TO BORROWER* | |
| 301. Gross amount due from borrower *(line 120)* | |
| 302. Less amounts paid by/for borrower *(line 220)* | ( ) |
| *303. CASH ( ☐ FROM) ( ☐ TO) BORROWER* | |

100. GROSS AMOUNT DUE FROM BORROWER

Page 1 of the Uniform Settlement Statement summarizes all actual costs and adjustments for the borrower and seller, including total settlement fees and charges found on line 1400 of Section L.

101. Contract Sales Price

This is the price of the home agreed to in the sales contract between the buyer and seller.

102. Personal Property

If, at the time the sales contract was made, you and the seller agreed that some items were to be transferred with the house, the price of those items is entered here. If it was agreed to include these items in the price of the home, their cost will be part of the sales price recorded on line 101. Personal property could include items such as carpets, drapes, stove, refrigerator, etc.

103. Settlement Charges to Borrower

The total charges detailed in Section L and totaled on line 1400, are recorded here. This figure includes all of the items payable in connection with the loan, items required by the lender to be paid in advance, reserves deposited with the lender, title charges, government recording and transfer charges, and any additional related charges.

104-105. Additional Costs

This space is for listing any additional amounts owed the seller, such as reserve funds if the buyer is assuming the seller's loan. This may not be applicable to your settlement.

106-112. Adjustments — These include taxes, front footage charges, insurance, rent, fuel and other items that the seller has previously paid for covering a period which runs beyond the settlement date. The costs are usually divided on a proportional basis with the seller being reimbursed for charges accruing after the date of transfer of title.

120. GROSS AMOUNT DUE — This is the total of lines 101 through 112.

200. AMOUNTS PAID BY OR ON BEHALF OF BORROWER

201. Deposit or Earnest Money — This is the amount which you paid against the sales price when the sales contract was signed. It is credited to the purchase.

202. Principal Amount of New Loan — This is the amount of the new mortgage which you will repay to the lender in the future.

203. Existing Loan(s) — If you are taking over the seller's mortgage(s) instead of obtaining a new loan or paying all cash, the amount still owed on those prior loans will be shown here.

210-219. Adjustments — This includes taxes or assessments which become due after settlement, but which the seller pays because they cover a period of time prior to settlement. See "Reserve Accounts" for a further discussion of these matters.

220. TOTAL AMOUNTS PAID BY/FOR BORROWER — This is the sum of lines 201 through 219.

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| | | |
|---|---|---|
| 300. | CASH AT SETTLEMENT FROM/TO BUYER | Remaining are the summary lines which are 301-303 for the borrower (and 601-603 for the seller). Subtracting line 302 (gross amount paid by or for the borrower) from line 301 (gross amount due from the borrower) results in the net cash the borrower must pay at settlement. |

RESERVE ACCOUNTS

In most instances, a monthly mortgage payment is made up of a payment on the principal amount of the mortgage debt which reduces the balance due on the loan, an interest payment which is the charge for use of the borrowed funds, and a reserve payment (also known as an escrow or impound payment) which represents approximately one-twelfth of the estimated annual insurance premiums, property taxes, assessments and other recurring charges.

When settlement occurs you may need to make an initial deposit into the reserve account; otherwise, your regular monthly deposits to it will not accumulate enough to pay the taxes, insurance or other charges when they fall due. Under RESPA, the maximum amount the lender can require borrowers or prospective borrowers to deposit into a reserve account at settlement is a total gross amount not to exceed the sum of: (a) an amount that would have been sufficient to pay taxes, insurance premiums, or other charges which would have been paid under normal lending practices, and ending on the due date of the first full monthly mortgage installment payment; plus (b) an additional amount not in excess of one-sixth (2 months) of the estimated total amount of taxes, insurance premiums and other charges to be paid on the dates indicated above during any twelve month period to follow.

An illustration will help clarify this calculation. Assume the following set of facts on a loan, and that taxes are paid at the end of the period against which taxes are assessed.

| Example: | |
|---|---|
| Settlement date | April 30, 1977 |
| Due Date of first mortgage loan repayment | June 1, 1977 |
| Taxes due yearly | $360.00 |
| Monthly tax accrual | $ 30.00 |
| Due date for taxes | December 1st for the calendar year |

The reserve amount for category (a) is $180.00. This represents the amount of taxes accruing between December 1, 1976 (the last tax due date) and May 30, 1977 ($30.00 x 6 months). Reserve amounts chargeable under category (b) could be up to two months advance payment times $30.00 or a total of $60.00. Therefore, total reserve deposits for taxes at settlement would be a maximum of $240.00. Changing the due date for taxes and/or the first mortgage payment results in a different reserve amount for the same illustration.

The same procedure is used to determine the maximum amounts that can be collected by the lender for insurance premiums or other charges. You need to know the charges and due dates in order to compute the amounts.

Once you begin your monthly mortgage payments, you cannot be required to pay more than one-twelfth of the annual taxes and other charges each month, unless a larger payment is necessary to make up for a deficit in your account or to maintain the cushion of the one-sixth of annual charges mentioned in (b) above. A deficit may be caused, for example, if your taxes or insurance premiums are raised.

You should note that the above monthly mortgage payments reserve limitations apply to all RESPA covered mortgage loans whether they were originated before or after the implementation of RESPA.

ADJUSTMENTS BETWEEN BUYER AND SELLER

The previous section dealt with setting up and maintaining your reserve account with the lender. At settlement it is also usually necessary to make an adjustment between buyer and seller for property taxes and other charges. This is an entirely separate matter from the initial deposit which the borrower makes into the new reserve account.

The adjustments between buyer and seller are shown in Sections J and K of the Uniform Settlement Statement. In the example given in the foregoing section, the taxes, which are payable annually, had not yet been paid when the settlement occurs on April 30. The homebuyer will have to pay a whole year's taxes on the following December 1. However, the seller lived in the house for the first four months of the year. Thus, four-twelfths of the year's taxes are to be paid by the seller. Accordingly, lines 208 and 508 on the Uniform

Settlement Statement would read as follows:

County taxes 1/1/77 to 4/30/77 $120.00

The buyer would be given credit for this amount in the settlement and the seller would have to pay this amount or count it as a deduction from sums payable to the seller.

In some areas taxes are paid at the beginning of the taxable year. If, in our example, the taxes were paid by the seller on January 1, 1977 for the following tax year ending December 31, 1977, the buyer will have to compensate the seller for the taxes paid by the seller for those months that the buyer will be in possession of the property (April 30-December 31). This adjustment will be shown on lines 107 and 407 of the Uniform Settlement Statement. With settlement occurring on April 30, those lines will read as follows:

County taxes 4/30/77 to 12/31/77 $240.00

This amount would be credited to the seller in the settlement.

Similar adjustments are made for insurance (if the policy is being kept in effect), special assessments, fuel and other utilities, although the billing periods for these may not always be on an annual basis. Be sure you work out these prorations with the seller prior to settlement. It is wise for you to notify utility companies of the change in ownership and ask for a special reading on the day of settlement, with the bill for pre-settlement charges to be mailed to the seller at his new address. This will eliminate much confusion that can result if you are billed for utilities which cover the time when the seller owned the unit.

APPENDIX A 38

CONSUMER LITERATURE ON HOME PURCHASING, MAINTENANCE, PROTECTION, AND OTHER TOPICS

U. S. Department of Housing and Urban Development

| | |
|---|---|
| **Appraisals** | |
| Questions and Answers on FHA Home Property Appraisals | HUD-38-F |
| **Condominiums** | |
| Financing Condominium Housing | HUD-77-F |
| HUD/FHA Non-Assisted Program for Condominium Housing | HUD-227-F |
| Questions About Condominiums | HUD-365-F |
| HUD/FHA Comparison of Condominium and Cooperative Housing | HUD-321-F |
| **Cooperatives** | |
| Let's Consider Cooperatives | HUD-17-F |
| HUD/FHA Program for Unsubsidized Cooperative Housing | HUD-256-F |
| **Home Mortgage Insurance** | |
| Home Mortgage Insurance | HUD-43-F |
| Programs for Home Mortgage Insurance | HUD-97-F |
| **Home Ownership** | |
| The Home Buying Serviceman. | HUD-121-F |
| HUD's Home Ownership Subsidy Program | HUD-419-HPMC |
| **Miscellaneous** | |
| Protecting Your Home Against Theft | HUD-315-F |
| Termites | HUD-323-F |
| Be An Energy Miser in Your Home | HUD-324-PA |
| **Mobile Homes** | |
| Buying and Financing a Mobile Home | HUD-243-F |
| Mobile Home Financing Through HUD | HUD-265-F |
| **General Interest** | |
| Wise Home Buying | HUD-267-F |
| Should You Buy or Rent a Home | HUD-328-F |

| | |
|---|---|
| Protecting Your Housing Investment | HUD-346-PA |
| Home Owners Glossary of Building Terms | HUD-369-F |
| Home Buyers Vocabulary | HUD-383-HM |
| Your Housing Rights | HUD-177-EO |

Contact: U.S. Department of Housing & Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, Room B-258 or HUD Regional Area and Insuring Offices throughout the country.

U.S. Veterans Administration

Pointers for the Veteran Homeowner
Questions and Answers on Guaranteed and Direct Loans for Veterans
To the Home-Buyer Veteran

Contact: Your Nearest VA Regional Office

U.S. Department of Agriculture

Selecting and Financing a Home

Contact: Office of Communications, U.S. Department of Agriculture
Washington, D.C. 20250

U.S. Department of Labor

Rent or Buy? (No. 178D)

Contact: Consumer Information Center,
Pueblo, Colorado 81009

General Services Administration

Consumer Information: A Catalog of Selected Federal Publications

Contact: Consumer Information Center,
Pueblo, Colorado 81009

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Equal Credit Opportunity Notice

The lender may provide the applicant the Equal Credit Opportunity Notice on this page. (Federal Reserve Board Regulation B, 12 CFR 202.4(d)) The Equal Credit Opportunity Act, 15 U.S.C. 1691 et. seq., prohibits discrimination against credit applicants on the basis of sex and marital status. Beginning March 23, 1977, the Act extends this protection to race, color, religion, national origin, age, whether all or part of the applicant's income is derived from any public assistance program, or if the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The applicant should note that the lender must either provide the notice here, on an application form, or on some other separate sheet of paper. This notice provides the name of the lender's supervising agency.

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