AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol. 43—No. 170
8-31-78
PAGES
38797-39067

federal register

THURSDAY, AUGUST 31, 1978

highlights

SUNSHINE ACT MEETINGS 38991

STATE MEDICAID PROGRAMS

HEW/HCFA request comments by 10-16-78 on how to lower the cost and improve the quality of eyeglasses and hearing aids 38877

MEDICAID, MEDICARE, AND OTHER HEALTH PROGRAMS

HEW/HCFA proposes maximum allowable costs (MAC) limits for certain multiple source drugs; comments by 10-2-78; hearings 10-18 and 10-19-78 38941

INCOME TAXES

IRS adopts rules on certain armed forces survivor annuities ... 38819
IRS proposes rules on amortization of expenditures for on-the-job training and child care facilities, comments by 10-30-78 .. 38869

EMERGENCY STANDBY MANDATORY CRUDE OIL AND REFINERY YIELD PROGRAMS

DOE/ERA solicits additional comments; comments by 9-29-78; hearing 9-26-78 38848

MANDATORY PETROLEUM ALLOCATION

DOE/ERA proposes guidelines to include petroleum substitutes in entitlements program; comments by 10-30-78 38844

AIR QUALITY TECHNICAL DEMONSTRATION PROGRAM

EPA issues criteria for the award of grants to major cities 38926

NATIONAL FOREST SYSTEM LAND RESOURCE MANAGEMENT PLANNING

USDA/FS proposes regulations; comments by 10-30-78 (Part III of this issue) 39046

MOTOR VEHICLE SAFETY STANDARDS

DOT/NHTSA issues interim regulation removing the requirement that low speed motor driven cycles (mopeds) must have larger stop lamps; comments by 10-30-78; effective 9-1-78.. 38831
DOT/FHA issues amendments concerning the placement of rear side-marker lamps on large semitrailers and full trailers; effective 10-1-78 38830
DOT/NHTSA issues rules on motor vehicle lighting; effective 3-1-79 38831
DOT/NHTSA issues rules on defect and noncompliance responsibility; effective 9-30-78 38833

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202-523-5240.**

FEDERAL REGISTER, Daily Issue:

Subscription orders (GPO)	**202**-783-3238
Subscription problems (GPO)	**202**-275-3050
"Dial - a - Reg" (recorded summary of highlighted documents appearing in next day's issue).	
Washington, D.C.	**202**-523-5022
Chicago, Ill	**312**-663-0884
Los Angeles, Calif	**213**-688-6694
Scheduling of documents for publication.	**202**-523-3187
Photo copies of documents appearing in the Federal Register.	523-5240
Corrections	523-5237
Public Inspection Desk	523-5215
Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235

PUBLIC LAWS:

Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

NONDISCRIMINATION ON THE BASIS OF HANDICAP

DOT to honor late-filed applications to testify at public hearings **38881**

OVER-THE-COUNTER ANTACIDS

FTC proposes trade regulation rule on disclosure of warning information in advertising, comments by 10-19-78; hearing on 12-4-78 ..... **38851**

VOLUNTARY FOREIGN AID

STATE/AID issues proposed rules on registrations of agencies with the Advisory Committee on Voluntary Foreign Aid; comment by 10-31-78 ..... **38854**

PRIVACY ACT OF 1974

ARMY issues rules on systems of records **38823**

TRUTH IN LENDING

FRS proposes interpretations on interest reduction on time deposits used to secure loans **38849**

FRS adopts amendment on maximum irregular period limits; effective 8-31-78 ..... **38813**

FRS issues rules on disclosure of varying payments scheduled to repay indebtedness, effective 8-31-78 ..... **38811**

FEDERAL PROCUREMENT

OMB requests comments on draft Federal acquisition regulation; comments by 10-31-78 ..... **38880**

FEDERAL PRISONERS

Justice/Parole amends rules on parole, recommittal, and supervision; effective 10-1-78 (4 documents) **38821-38823**

POSTAL PROPERTY

PS issues prohibitions, with certain exceptions against depositing or posting handbills, signs, and the like on postal premises; effective 10-1-78 ..... **38824**

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Interior/FWS determines critical habitat for the Contra Costa Wallflower and the Antioch Dunes Evening-Primrose; effective 8-31-78 (Part II of this issue) **39042**

PESTICIDE PROGRAMS

EPA establishes a maximum permissible level for residues of terbacil on pecans; effective 8-31-78 ..... **38827**

MOTOR VEHICLE FUEL ECONOMY LABELING

EPA includes certain passenger cars in special purpose truck category; effective 8-31-78 ..... **38828**

MEETINGS—

Commerce/NBS: Building Technology Advisory Committee, 9-13-78 ..... **38892**

DOT/FAA: RTCA Special Committee 129 on Future Civil Aviation Frequency Spectrum Requirements, 9-14 and 9-15-78 ..... **38965**

NHTSA: National Highway Safety Advisory Committee, 9-25 through 9-27-78 ..... **38965**

HEW/OE: National Advisory Council on Adult Education, 10-5 through 10-7-78 38943
National Advisory Council on Bilingual Education, 9-15 and 9-16-78 38942
National Advisory Council on Indian Education, 9-15 and 9-16-78 38942
Interior/NPS: Ozark National Scenic Riverways Advisory Commission, 9-29-78 38948
Justice/LEAA: National Minority Advisory Council on Criminal Justice, 9-22 and 9-23-78 38952
NFAH: Humanities Panel, 9-15, 9-20, 9-21, 9-22, and 9-25-78 ..... 38953, 38954

RESCHEDULED MEETING—

EPA: Interagency Toxic Substances Data Committee, 9-12 and 10-5-78 38926

HEARINGS—

EPA: Standards of Performance for New Stationary Sources, 9-29-78 38872
National Commission for the Review of Antitrust Laws and Procedures, 9-12 through 9-14-78 38953

SEPARATE PARTS OF THIS ISSUE

Part II, Interior/FWS 39042
Part III, USDA/FS 39046
Part IV, EPA 39061

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

SBA—Definition of construction and service contractors for purpose of surety bond guarantee 36052; 8-15-78
Labor/Sec'y—Administrative provisions for programs under the Comprehensive Employment and Training Act; Amendment to regulations on retirement programs 34462; 8-4-78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: August 25, 1978]

H.R. 11579 ..... Pub. L. 95-353
To designate the Veterans' Administration center located at 1901 South First Street, Temple, Tex., as the "Olin E. Teague Veterans' Center;" and for other purposes. (August 28, 1978; 92 Stat. 518) Price: $.50.

H.R. 10732 ..... Pub. L. 95-354
To authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes. (August 28, 1978; 92 Stat. 519) Price: $.50.

contents

AGENCY FOR INTERNATIONAL DEVELOPMENT

Proposed Rules

Voluntary foreign aid; agency registration 38854

AGRICULTURAL MARKETING SERVICE

Rules

Milk marketing orders:
- Eastern Ohio-Western Pennsylvania 38797
- Oranges (valencia) grown in Ariz. and Calif. 38797

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Farmers Home Administration; Forest Service.

ANTITRUST LAWS AND PROCEDURES, NATIONAL COMMISSION FOR REVIEW

Notices

Hearings 38953

ARMY DEPARTMENT

Rules

Privacy Act; implementation 38823

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
- Humanities Panel (6 documents) 38953, 38954

BONNEVILLE POWER ADMINISTRATION

Notices

Environmental statements, availability, etc.:
- Bonneville proposed program for fiscal year 1979; Franklin Area System 38892

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
- Braniff Airways, Inc. 38882
- Budget fares between Houston and London 38883
- Texas International Airlines, Inc 38885
- Texas International-National acquisition case and enforcement investigation et al 38886

COMMERCE DEPARTMENT

See National Bureau of Standards.

CUSTOMS SERVICE

Rules

Court decisions adverse to Customs Service; compliance after publication of acquiescence 38817

DEFENSE DEPARTMENT

See Army Department.

DELAWARE RIVER BASIN COMMISSION

Rules

Practice and procedure rules:
- Wetlands protection policy 38816

ECONOMIC REGULATORY ADMINISTRATION

Proposed Rules

Petroleum allocation and price regulations, mandatory:
- Emergency standby mandatory crude oil and refinery yield control programs; hearings and extension of time 38848

Petroleum price regulations, mandatory:
- Synthetic fuels under entitlements programs; application guidelines 38844

EDUCATION OFFICE

Notices

Meetings:
- Adult Education National Advisory Council 38943
- Bilingual Education National Advisory Council 38942
- Indian Education National Advisory Council 38942

ENERGY DEPARTMENT

See also Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Notices

Consent orders:
- Continental Oil Co. et al 38925

Environmental statements, availability, etc.:
- Strategic petroleum reserve, Capline Salt Domes; Assumption et al., La 38926

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; approval and promulgation; various States, etc.:
- California (2 documents) 38825, 38826

Motor vehicle fuel economy:
- Labeling program; inclusion of passenger cars in class of special purpose trucks 38828

Pesticide chemicals in or on raw agricultural commodities:
- Terbicil 38827

Proposed Rules

Air pollution; standards of performance for new stationary sources:
- Major source categories; list ... 38872

Water pollution control; effluent guidelines for certain point source categories:
- Best conventional pollutant control technology; correction 39062

Notices

Grants, States and local assistance:
- Air quality technical demonstration program 38926

Meetings:
- Interagency Toxic Substances Data Committee; change in meeting date 38926

Pesticide registration applications (2 documents) 38933, 38935

Pesticides; tolerances, registration, etc.:
- Butachlor 38933
- Ethyl Parathion 38928
- Mesurol 38931
- Permethrin 38932
- Strychnine 38929

FARMERS HOME ADMINISTRATION

Notices

Disaster and emergency areas:
- Kansas 38882

FEDERAL AVIATION ADMINISTRATION

Rules

Jet routes 38815
Restricted areas 38814
Transition areas 38814

Notices

Meetings:
- Aeronautics Radio Technical Commission 38965

Organization and functions:
- General Aviation District Offices: Jacksonville, St. Petersburg, and Miami, Fla.; boundary changes 38965

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Practice and procedure:
- Ex parte communications in informal rulemaking procedures; extension of time 38881

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
- Algonquin Gas Transmission Co 38893

Arkansas Louisiana Gas Co 38898
Arkansas Oklahoma Gas Corp 38898
Blackstone Valley Electric Co 38893
Central Vermont Public Service Corp. (2 documents) 38899, 38903
Colorado Interstate Gas Co. (2 documents) 38893, 38903
Columbia Gas Transmission Corp 38903
Columbia Gas Transmission Corp., et al 38894
Consolidated Edison Co. of New York, Inc 38894
Eastern Shore Natural Gas Co 38904
El Paso Natural Gas Co 38894
Florida Gas Transmission Co. (2 documents) 38895, 38899
Florida Power & Light Co 38899
Gulf States Utilities Co 38895
Kansas Gas & Electric Co 38896
Kansas Power & Light Co 38896
Madison, Maine, Town of, Electric Works Department 38904
Martinsville, Va., City of 38905
Montana-Dakota Utilities Co.. 38896
National Fuel Gas Supply Corp 38897
Natural Gas Pipeline Co. of America 38900
New York State Electric & Gas Corp 38897
Northern Natural Gas Co. (3 documents) 38901, 38902
Northwest Pipeline Corp. (2 documents) 38900, 38905
Pacific Interstate Transmission Co 38897
Pacific Power & Light Co. (3 documents) 38897, 38906
Panhandle Eastern Pipe Line Co. (2 documents) 38902, 38906
South Texas Natural Gas Gathering Co 38907
Southern Natural Gas Co. (3 documents) 38907, 38908
Tampa Electric Co 38909
Tennessee Gas Pipeline Co. (2 documents) 38909
Texas Gas Transmission Corp 38910
Texas Gulf Coast Area Rate Proceeding, et al 38910
Wisconsin Public Service Corp 38910
Yadkin, Inc 38912

FEDERAL HIGHWAY ADMINISTRATION

Rules

Motor carrier safety regulations:
Parts and accessories; lamps, semitrailer and full trailer rear sidemarker; location 38830
Right-of-way and environment:
Real property acquisition reports, annual 38818

FEDERAL INSURANCE ADMINISTRATION

Proposed Rules

Flood elevation determinations:
New Hampshire (5 documents) 38858–38861
New Jersey 38862
New York; correction 38862
Ohio 38862
Oregon 38863
Pennsylvania (4 documents) .. 38863–38865
Texas (5 documents) 38866–38868

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc 38936
Oil pollution; certificates of financial responsibility (3 documents) 38937–38939

FEDERAL PROCUREMENT POLICY OFFICE

Proposed Rules

Federal acquisition regulation project:
Formal advertising and contracting by negotiation; inquiry 38880

FEDERAL REGISTER OFFICE

Notices

National Fire Code; standards revision; inquiry; correction 38941

FEDERAL RESERVE SYSTEM

Rules

Truth-in-lending:
Disclosure of varying payments to repay indebtedness 38811
Official staff interpretations .. 38813

Proposed Rules

Truth-in-lending:
Official staff interpretations .. 38849

Notices

Applications, etc.:
F&M National Corp 38940
Joy Development Corp 38940
Loomis Co 38940
Morris County Bankshares, Inc 38940
Plainview Bancshares, Inc 38941
Quail County Investment Corp 38941
State Exchange Bancshares, Inc.; correction 38940

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Capital Builders, Inc., et al 38815

Proposed Rules

Antacids, over-the-counter; advertising 38851
Consent orders:
McDonnell Douglas Corp., et al; correction 38851

FISH AND WILDLIFE SERVICE

Rules

Endangered and threatened species; fish, wildlife, and plants:
Antioch Dunes evening-primrose and Contra Costa wallflower; critical habitat 39042
Fishing:
Upper Mississippi River Wildlife and Fish Refuge, Ill. 38835
Hunting:
Chincoteague National Wildlife Refuge, Va 38839
Eastern Neck National Wildlife Refuge, Md 38839
Lake Zahl National Wildlife Refuge, N. Dak 38838
Lostwood National Wildlife Refuge, N. Dak 38838
Moosehorn National Wildlife Refuge, Maine 38840
Necedah National Wildlife Refuge, Wis. 38841
Pocasse National Wildlife Refuge, S. Dak. (2 documents) .. 38836, 38837
Presquile National Wildlife Refuge, Va 38841
Sand Lake National Wildlife Refuge, S. Dak. (3 documents) 38836, 38837
Upper Mississippi River Wildlife and Fish Refuge, Ill. (2 documents) 38842
White Lake National Wildlife Refuge, N. Dak 38838
Public access, entry, use, and recreation:
Upper Mississippi River Wildlife and Fish Refuge, Ill 38843

FOREST SERVICE

Proposed Rules

Planning; National Forest System land and resource management 39046

GENERAL SERVICES ADMINISTRATION

See Federal Register Office.

GEOLOGICAL SURVEY

Notices

Coal land classifications:
New Mexico 38947

HEALTH CARE FINANCING ADMINISTRATION

Proposed Rules

Medical assistance programs:
Eyeglasses and hearing aids, reimbursement; inquiry 38877

Notices

Amoxicillin, etc.; maximum allowable costs; hearings 38941

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office; Health Care Financing Administration; Public Health Service.

HEARINGS AND APPEALS OFFICE, ENERGY DEPARTMENT

Notices

Applications for exception, etc.:
Cases filed (2 documents) 38922-38924
Decisions and orders (5 documents) 38912-38921

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

IMMIGRATION AND NATURALIZATION SERVICE

Rules

Immigration regulations:
Alien crewmen, nonimmigrant, landing permits and identification cards; effective date postponed 38811

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Geological Survey; Land Management Bureau; National Park Service.

INTERNAL REVENUE SERVICE

Rules

Income, estate, and gift taxes:
Annuities, armed forces survivor 38819

Proposed Rules

On-the-job training and child care facilities; amortization of expenditures 38869

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Cattle whips 38949
Machine needles 38949
Stainless steel round wire from Japan 38949
Steel wire strand for prestressed concrete from India 38951
Sugar from Belgium, France and West Germany 38948
Unalloyed, unwrought copper; report to President 38948

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assignments 38986
Motor carrier, broker, water carrier, and freight forwarder applications; correction 38985
Motor carriers:
Permanent authority applications 38966
Temporary authority applications; correction (2 documents) 38966, 38986
Transfer proceedings (2 documents) 38986, 38987
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications 38976
Railroad car service orders; various companies:
Atlanta & West Point Rail Road Co. et al 38990
Denver & Rio Grande Western Railroad Co 38986
Rerouting of traffic:
Chesapeake & Ohio Railway Co 38989
Southern Pacific Transportation Co 38989

JUSTICE DEPARTMENT

See also Immigration and Naturalization Service; Law Enforcement Assistance Administration; Parole Commission.

Rules

Organization, functions, and authority delegations:
Branch Directors et al.; Civil Division Cases 38820

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico (4 documents) 38945
Wyoming (7 documents) 38943, 38944, 38946
Environmental statements, availability, etc.:
Outer Continental Shelf; California oil and gas leasing 38944
Withdrawal and reservation of lands, proposed, etc.:
Oregon 38945

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Meetings:
Criminal Justice National Minority Advisory Council 38952

MANAGEMENT AND BUDGET OFFICE

See also Federal Procurement Policy Office.

Notices

Clearance of reports; list of requests (2 documents) 38963, 38964

NATIONAL ARCHIVES AND RECORDS SERVICE

See also Federal Register Office.

NATIONAL BUREAU OF STANDARDS

Notices

Meetings:
Building Technology Advisory Committee 38892

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Defect and noncompliance responsibility 38833
Motor vehicle safety standards:
Lamps, reflective devices, etc. (2 documents) 38831

Notices

Meetings:
National Highway Safety Advisory Committee 38965
Motor vehicle safety standards; exemption petitions, etc.:
General Motors Corp.; occupant restraint systems 38965

NATIONAL PARK SERVICE

Notices

Meetings:
Ozark National Scenic Riverways Advisory Commission 38948

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Safety recommendations and accident reports; availability, responses, etc 38959

NUCLEAR REGULATORY COMMISSION

Notices

Environmental statements; availability, etc.:
Allens Creek Nuclear Generating Station 38958
Babcock & Wilcox Commercial Nuclear Fuel Plant 38958
International Atomic Energy Agency codes of practice and safety guides; availability of drafts 38959
Nuclear powerplants, standardization; program changes; availability 38954

PAROLE COMMISSION

Rules

Prisoners, youth offenders, and juvenile delinquents; parole, release, etc.:
Appeals filed by prisoners; filing deadlines 38821
Forfeiture of statutory "good time;" consideration in parole decision 38822
Immigration detainer; consideration in parole decision 38822
Information concerning parolees, release 38823

POSTAL RATE COMMISSION

Notices

Visits to postal facilities 38964

POSTAL SERVICE

Rules

Organization and administration:
Postal property conduct; solicitation, vending, and debt collection prohibitions 38824

PUBLIC HEALTH SERVICE

Rules

Coal miners, underground medical examinations of; chest X-rays; correction 38830

STATE DEPARTMENT

See Agency for International Development.

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.

Proposed Rules

Nondiscrimination:
Handicapped in Federally-assisted programs and activities; hearings; late-filed applications 38881

Notices

Civil Rights Act of 1964; assignment of compliance functions to HEW 38966

TREASURY DEPARTMENT

See Customs Service; Internal Revenue Service.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR

908 38797
1036 38797

8 CFR

252 38811

10 CFR

PROPOSED RULES:
211 (2 documents) 38844, 38848
212 38848

12 CFR

226 (2 documents) 38811, 38813

PROPOSED RULES:
226 38849

14 CFR

71 38814
73 38814
75 38815

16 CFR

13 38815

PROPOSED RULES:
13 38851
451 38851

18 CFR

401 38816

19 CFR

Ch. I 38817

22 CFR

PROPOSED RULES:
203 38854

23 CFR

710 38818

24 CFR

PROPOSED RULES:
1917 (18 documents) ... 38858-38868

26 CFR

1 38819
20 38820
25 38820

PROPOSED RULES:
1 38869

28 CFR

0 38820
2 (4 documents) 38821-38823

32 CFR

505 38823

36 CFR

PROPOSED RULES:
219 39046

39 CFR

232 38824

40 CFR

52 (2 documents) 38825, 38826
180 38827
600 38828

PROPOSED RULES:
60 38872
405 39062
406 39062
407 39062
408 39062

40 CFR—Continued

PROPOSED RULES—Continued
409 39062
411 39062
412 39062
418 39062
422 39062
424 39062
426 39062
427 39062
432 39062

42 CFR

37 38830

PROPOSED RULES:
450 38877

47 CFR

PROPOSED RULES:
1 38880

48 CFR

PROPOSED RULES:
Ch. I 38880

49 CFR

393 38830
571 (2 documents) 38831, 38832
579 38833

PROPOSED RULES:
27 38881

50 CFR

17 39042
26 38835
32 (15 documents) 38836-38842
33 38843

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. 1 33675

3 CFR

PROCLAMATIONS:

4580 34753
4581 35461
4582 35463
4583 35465
4584 35467
4585 36879
4586 36881
4587 36883
4588 37159
4589 37417
4590 38567

REORGANIZATION PLANS:

No. 2 of 1978 36037

EXECUTIVE ORDERS:

11512 (Revoked by EO 12072) 36869
11861 (Revoked by EO 12076) 37161
12072 36869
12073 36873
12074 36875
12075 36877
12076 37161
12077 37163

MEMORANDUMS:

August 11, 1978 38677
August 18, 1978 38677

5 CFR

213 ..... 33675, 34427, 34428, 35017, 35645, 36043, 36591-36593, 37979
300 38290
315 34428
316 34429
890 ..... 35017, 38569
891 35018

PROPOSED RULES:

297 35721
713 33732
890 ..... 35046, 35047

7 CFR

2 37419
15 34755
210 37165
226 37979
235 37170
245 ..... 37980, 38569
275 35645
301 36043
354 34429
401 ..... 36423, 38681
415 38682
417 36423
661 34755
725 36044
726 38569
792 33676
908 ..... 34103, 35469, 36428, 37679, 38797

7 CFR—Continued

910 ..... 34430, 35646, 36593, 37981
917 38369
919 34103
926 ..... 35259, 37981
930 34104
945 33676
948 37982
967 35019
981 ..... 36593, 36885
991 36044
1036 ..... 33897, 38797
1040 ..... 36045 38570
1071 36235
1421 ..... 34757, 36046
1427 ..... 34104, 34762, 36236
1435 ..... 37419, 38686
1446 35469
1701 35647
1806 34430
1904 36594
1918 36885
1924 36885
1933 37983
1945 ..... 35648, 36594
1980 ..... 35661, 38570

PROPOSED RULES:

401 38411
722 35053
728 ..... 34483, 37458, 38013
800 36641
910 38411
913 34483
926 38412
927 33732
932 38706
989 33923
993 35053
1001 35490
1004 ..... 35926, 36106
1011 38412
1125 38706
1126 35047
1421 ..... 37458, 38013
1430 34488
1701 ..... 35721, 36106, 38014, 38015, 38585
1801 38707
1822 ..... 33923, 34489
1901 38707
1980 ..... 34490, 36952
2852 ..... 34490, 35722, 38015

8 CFR

100 36237
103 36238
204 ..... 33677, 36238
212 36238
235 35259
238 38370
242 36238
252 ..... 37173, 38811

PROPOSED RULES:

214 38414

9 CFR

51 33677
73 35020
77 34430
78 36049
92 ..... 35458, 35682, 38570
318 33678

PROPOSED RULES:

92 ..... 33926, 34490, 38585

10 CFR

9 37420
35 37421
50 34764
73 ..... 34765, 37421, 38370
205 ..... 33687, 34433
211 33688
212 ..... 33689, 33694
470 35020

PROPOSED RULES:

30 38025
40 38025
50 ..... 37473, 38025
70 ..... 35321, 38025
73 35321
205 36264
210 34786
211 ..... 34786, 36264, 38844, 38848
212 ..... 34786, 36264, 38848
440 34493
473 37203
500 36280
600 36962
1022 36461

12 CFR

201 38571
204 37687
213 38687
220 33899
226 ..... 34111, 35025, 36052, 38572, 38811, 38813
261b 34481
265 34481
545 35260
546 35262
563 35262
584 35262
613 36428
615 36052
701 ..... 33899, 36239, 37984

PROPOSED RULES:

225 36281
226 38849
336 36461
563 36107
571 36107
611 36108
612 36108
701 33929

13 CFR

102 38573
120 35907
121 36052

PROPOSED RULES:

121 35944

14 CFR

39 ..... 34766, 34770, 35471-35473, 36429, 36430, 37679, 37680, 38371-38373
71 ..... 34114, 34770, 34771, 35474, 36431, 36432, 36893-36896, 37680, 37682, 38374-38377, 38814
73 ..... 36896, 38378, 38814
75 ..... 36896, 38815
95 34772
97 ..... 35475, 37683
202 34115
205 34116
207 36598
208 36599
212 ..... 34116, 36600
213 34116
214 ..... 34117, 36601
216 34117
217 36602
221 ..... 34117, 34442, 36053
223 38378
241 36602
249 36602
288 38573
312 34119
371 36603
372a 36603
373 36603
375 34119
378 36603
378a 36604
380 36604
384 34119
385 34120
389 ..... 36618, 38574
399 ..... 35026, 36053
1204 34122
1245 34122

PROPOSED RULES:

Ch. II 34788
21 36461
25 ..... 36461, 37703, 37958
39 ..... 34786, 34787, 38414
43 36461
45 36461
63 36464
65 ..... 36461, 36464
71 ..... 34157, 35944, 36471, 36972, 36973, 37705-37711, 38415, 38416
73 35945
75 ..... 34158, 35946, 36471
91 36461
121 ..... 35518, 36461, 36464, 37703, 37958
127 ..... 35518, 37958
135 36461
137 37958
221 34788
241 33733
242 33733
249 33733
291 33733
302 34788
312 38025
399 35490

15 CFR

371 35027
373 35028
377 36618

15 CFR—Continued

378 35028
379 ..... 33699, 35029
399 33699
909 36240
917 35029

16 CFR

1 35683
4 35683
13 ..... 33900, 34124, 35262, 36432, 37174, 37429, 38380, 38688, 38815
702 35684
801 ..... 34443, 36053
802 ..... 34443, 36053
803 ..... 34443, 36053
1115 34988
1209 35240
1500 33701

PROPOSED RULES:

4 36054
13 ..... 33931, 35054, 35338, 35339, 36281, 36642, 36973, 37712, 38578, 38711, 38851
259 34496
423 27459
439 35341
451 38851
453 34500
460 37203
461 37203
1118 35440
1306 37713

17 CFR

Ch. II 33904
1 36897
18 37431
200 ..... 36621, 36897
201 38575
211 36900
229 34407
239 34412
240 ..... 33906, 34413
249 34413

PROPOSED RULES:

16 37714
32 37715
229 34415
230 35730
240 ..... 33935, 34790
241 34790
249 ..... 34790, 37460, 38026
250 35490
256 35490
270 36643

18 CFR

1 ..... 35907, 36434
3 36435
35 36437
141 35911
157 36437
201 35911
216 35911
260 ..... 34454, 35911
401 38816
803 34127

PROPOSED RULES:

2 36471
157 36471

19 CFR

Ch. I 38817
4 36621
12 36054
19 38381
101 ..... 36055, 36056
111 34454
112 36057
144 38381
153 35262
159 37685

PROPOSED RULES:

101 36108
200 34159
201 34159

20 CFR

404 ..... 33705, 34455, 34777
410 34778
620 36058
715 36772
717 36772
720 36772
725 36772
727 36818

PROPOSED RULES:

404 ..... 35344, 36110
416 36478

21 CFR

5 36060
81 36061
131 36622
136 38575
137 38575
182 36063
184 36063
193 35915
201 37985
207 37997
314 37985
436 34456
446 34456
510 35685
520 ..... 35685, 36622
526 37170
539 38000
540 38000
558 ..... 34457, 35686
561 ..... 34457, 35686, 35915
573 ..... 33707, 33708
607 37997
610 34457
640 34457
807 37997
1308 38382

PROPOSED RULES:

10 35056
16 ..... 35056, 35186, 35210
54 35210
56 35186
71 ..... 35186, 35210
73 36064
170 35210
171 ..... 35186, 35210
180 ..... 35186, 35210
182 ..... 34500, 35731, 36644, 38591
184 ..... 34500, 35731, 38591
186 ..... 35731, 36644
211 36644
310 ..... 35186, 35210
312 ..... 35186, 35210

21 CFR—Continued

PROPOSED RULES—Continued

314 ..... 35186, 35210
320 ..... 35056, 35186, 35210
330 ..... 35186, 35210
347 34628
352 38206
361 ..... 35186, 35210
430 ..... 35186, 35210
431 ..... 35186, 35210
505 ..... 35731, 36645
510 35210
511 35210
514 35210
539 ..... 35731, 36645
548 ..... 35731, 36645
558 35059
570 35210
571 35210
601 ..... 35186, 35210
610 35731
630 ..... 35186, 35210
660 35731
812 35056
821 36644
1003 ..... 35186, 35210
1010 ..... 35186, 35210
1308 ..... 34503, 35734

22 CFR

709 36064

PROPOSED RULES:

203 38854

23 CFR

260 35477
470 38384
626 35030
630 34460
650 35031
710 38818

PROPOSED RULES:

480 35008
625 37556
635 36645
646 ..... 35008, 35491

24 CFR

81 36200
203 ..... 33906, 38384
204 33906
207 38385
220 38385
280 35265
570 34056
571 34751
600 34057
803 35162
880 33880
881 33880
883 33880
888 35162
1914 ..... 36066, 36901, 38689
1915 .. 36241-36243, 36905, 38691, 38696
1917 35267-35278
1920 35916-35920

PROPOSED RULES:

235 38417
570 34424
1917 ..... 35060-35069, 35491-35502, 36478-36485, 38417-38429, 38594-38598, 38713-38724, 38858-38868

25 CFR

113 37175
258 ..... 35278, 37431
271 37440
272 37445
273 37445
274 37445
275 37446
276 37446
277 37447

PROPOSED RULES:

41 35346
153 36647
271 37464
272 37464
273 37464
274 37464
276 37464
277 37464

26 CFR

1 ..... 34128, 35279, 36244, 37450, 38819
7 ..... 35920, 36244
20 38820
25 38820
301 ..... 37717, 38002

PROPOSED RULES:

1 ..... 33936, 33937, 35735, 35949, 36111, 36977, 37204, 38027, 38429, 38599-38602, 38725-38731, 38869
7 38731
55 37204
301 ..... 33937, 38605

27 CFR

4 37672
18 37180
194 37180
250 37180
251 37180

28 CFR

0 ..... 36068, 36438, 37686, 38820
2 38821-38823
16 ..... 36439, 38385
50 38290

PROPOSED RULES:

Ch. V 34062
16 ..... 35347, 36486

29 CFR

70a 36069
89 33708
98 34462
575 ..... 36623, 37180
1607 38290
1910 ..... 35032, 35035
1928 35035
1952 ..... 34463, 36624
2520 35042

PROPOSED RULES:

800 38029
2200 36854
2201 36854
2520 38032

30 CFR

44 35687
211 37181
610 35477
890 38556

30 CFR—Continued

PROPOSED RULES:

Ch. VII 36114
48 34504
715 38035

31 CFR

PROPOSED RULES:

10 ..... 34161, 38045

32 CFR

44 36245
49 36245
56 36245
57 36245
63 36245
64 36245
71 36245
72 36245
83 36245
84 36245
86 36245
93 36245
95 36245
96 36245
120 36245
123 36245
125 36245
136 36245
139 36245
142 36245
158 36245
173 36245
178 36245
210 36245
213 36245
235 36245
240 36245
241 36245
250 36245
254 36245
265 36245
266 36245
267 36245
280 36245
294 36245
505 38823
553 ..... 35043, 35922
706 ..... 33709, 36070
811a 33907
822 37686
837 35477
875 36924
885 35687
887 38386
888 36071
889 38388
952 33908
953 33912
1466 35280

PROPOSED RULES:

44 38430
552 33749
553 ..... 35069, 35950

33 CFR

25 36930
110 35480
127 37689
183 ..... 36440, 36441
222 35480

33 CFR—Continued

PROPOSED RULES:

117 38434-38435
126 34362
128 36486
204 36283
209 34162

36 CFR

7 35482
223 38008
262 36245

PROPOSED RULES:

7 35070
21 35071
219 39046

37 CFR

2 35482
201 ..... 35044, 37451

38 CFR

21 35280
36 37197

PROPOSED RULES:

3 34505
17 38046
21 ..... 37204, 38046

39 CFR

232 38824

PROPOSED RULES:

111 ..... 35949, 37205, 38049

40 CFR

22 34730
52 ..... 33912-33918, 34129-34131, 34463-34470, 35694, 36245, 36247, 36624-36627, 36930-36932, 38700, 38825, 38826
55 ..... 35922, 38703
60 ..... 34340, 34784
86 37970
118 ..... 36628, 38008
119 36628
162 ..... 34471, 37610
180 ..... 35309, 35696, 35697, 35923, 36628-36629, 38827
204 38705
209 34132
228 33711
600 38828
730 36249
761 33918

PROPOSED RULES:

6 37078
22 34738
25 34794
35 34794
51 34892
52 ..... 34892, 35072, 35347, 35952, 35956, 36114, 36203, 38049
53 34892
58 34892
60 ..... 34349, 34892, 38872
62 33749
65 ..... 33750-33754, 34506, 35502-35508, 35957, 35961, 36284, 36649-36654, 37468, 38050-38056

40 CFR—Continued

PROPOSED RULES—Continued

79 38607
87 36978
105 34794
120 35735
122 37078
123 37078
124 37078
125 37078
163 37336
180 ..... 34163, 34804, 35348, 35349, 35963, 36655
249 34794
256 38534
402 37078
405 ..... 37570, 39062
406 ..... 37570, 39062
407 ..... 37570, 39062
408 ..... 37570, 39062
409 ..... 37570, 39062
411 ..... 37570, 39062
412 ..... 37570, 39062
413 33940
418 ..... 37570, 39062
422 ..... 37570, 39062
424 ..... 37570, 39062
426 ..... 37570, 39062
427 ..... 37570, 39062
432 ..... 37570, 39062
761 38057

41 CFR

Ch. 3 33712
Ch. 101 ..... 33713, 33892
1-16 35310
4-1 37454
5B-3 37197
14H-70 37455
60-3 38290
101-17 ..... 34139, 35484
101-36 34140
101-44 38008
114-52 36933

PROPOSED RULES:

3-1 ..... 33761, 33940
3-4 33940
3-7 33940
60-20 38057
101-28 36488

42 CFR

36 34650
37 ..... 33713, 38830
57 ..... 36441, 36630, 37199
67 34471
405 35698

PROPOSED RULES:

Ch. IV 37721
37 33762
51a 34717
52 34507
91 35073
122 33764
123 33764
201 38345
204 38345
205 38345
213 38345
405 ..... 33763, 36488, 37469, 38058
430 38345

42 CFR—Continued

PROPOSED RULES—Continued

448 ..... 35077, 38668
449 ..... 36656, 38058
450 ..... 36478, 38668, 38877

43 CFR

4 ..... 34376, 37689
29 33721
2920 38009
3100 37202

PROPOSED RULES:

420 37207

45 CFR

Ch. I 35484
16 36249
19 35310
74 34076
100b 35701
100c 35701
121h 36634
126 34324
144 ..... 34146, 37896
168 34334
173 35701
175 ..... 34146, 37896
176 ..... 34146, 37896
177 34338
185 ..... 36228, 36250
801 35704
1061 35312

PROPOSED RULES:

168 35624
190 35964
200 38318
201 ..... 38318, 38326
204 38326
205 ..... 36478, 38318
213 ..... 38318, 38326
228 34719
228a 38326
232 34164
233 35511
300 38337
301 ..... 34164, 38337, 38668
302 ..... 34164, 38668
303 34164
304 ..... 34164, 38337, 38668
306 38668
405 34710
450 34710
455 34710
1010 36489
1076 35511
1609 33764
1705 34805

46 CFR

502 ..... 33721, 38578
542 35704

PROPOSED RULES:

151 37149
153 37149

47 CFR

0 ..... 36086, 36444
1 36086
2 33722
15 36096
21 35314
73 ..... 35924, 36104, 36942-36946, 38390

47 CFR—Continued

74 38390
76 ..... 36946, 38391
89 38403
91 38407
93 38407
95 38407
97 33722

PROPOSED RULES:

1 ..... 34167, 38880
2 ..... 35350, 35352, 35353, 36489
21 35969
61 34806
63 ..... 33942, 34823, 36285
64 ..... 34823, 36285
67 ..... 34823, 36978
73 ..... 33765, 33772, 34170, 34509, 35356, 35357, 35969, 36116, 36117, 36659, 36978, 37136, 37722-37725, 38058, 38060, 38607, 38735
74 ..... 36981, 38436
76 36978
81 35352
83 ..... 35352, 35353, 35512
87 ..... 35350, 35352, 36489
89 ..... 35352, 35360
91 ..... 35352, 35360
93 ..... 35352, 35360
95 35360
97 ..... 35352, 36984, 36985, 37729

48 CFR

PROPOSED RULES:

Ch. I 34824, 35736, 38880

49 CFR

Ch. I 35485
25 33725
171 36446
172 35485
173 ..... 35485, 36446
178 36446

49 CFR—Continued

221 36447
393 38830
531 34785
571 ..... 36448, 38831, 38832
579 38833
803 36454
845 37690
1033 ..... 34147-34150, 34476, 35317, 35718, 36639, 37692, 38407
1051 38408
1056 33921
1104 38408
1106 36640
1126 36455
1127 37693
1132 38408
1201 ..... 36456, 37455
1202 37455
1205 37456
1206 ..... 36456, 37456
1207 37456
1208 37456
1209 37456
1210 37456
1211 37457
1241 35485
1307 38408
1310 38408

PROPOSED RULES:

Ch. II 36659
Ch. IX 38736
Ch. X 33774
27 ..... 34171, 38881
177 36492
195 35513
395 38608
537 35517
821 37732
1033 35083
1040 33945

49 CFR—Continued

PROPOSED RULES—Continued

1047 ..... 34172, 38609
1082 ..... 34172, 38609
1121 33775
1124 ..... 35082, 36662
1201 34172

50 CFR

17 ..... 34476, 39042
20 ..... 35900, 38010
21 34150
26 ..... 34151, 36949, 36950, 38835
32 ..... 33921, 33922, 34151-34156, 34480, 35320, 35486-35488, 36251-36262, 36450-36460, 36950, 37697-37701, 38010, 38011, 38408, 38410, 38582-38584, 38705, 38836-38842
33 ..... 36262, 36460, 36951, 38843
216 36263
611 ..... 35719, 35924
651 35488

PROPOSED RULES:

10 37473
13 37473
14 37473
17 ..... 35636, 36117, 36588, 37662, 37668, 38737
20 35890
23 36662
25 37732
32 34825
81 38737
230 38609
251 33946
611 ..... 33776, 34510, 34825
656 ..... 35736, 38448
672 34825
810 ..... 35014, 36293

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date
33675-33897	Aug. 1
33899-34102	2
34103-34426	3
34427-34751	4
34753-35016	7
35017-35258	8
35259-35459	9
35461-35643	10
35645-35906	11
35907-36036	14
36037-36234	15
36235-36422	16
36423-36590	17
36591-36881	18
36883-37158	21
37159-37415	22
37417-37678	23
37679-37977	24
37979-38367	25
38369-38565	28
38567-38675	29
38677-38795	30
38797-39067	31

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.

[3410-02]

Title 7—Agriculture

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

[Valencia Orange Reg. 604]
[Valencia Orange Reg. 603, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 1-7, 1978, and increases the quantity of such oranges that may be so shipped during the period August 25-31, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective September 1, 1978, and the amendment is effective for the period August 25-31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under 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 Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of Valencia oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on August 29, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continues to be good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. § 908.904 Valencia Orange Regulation 604.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period September 1, 1978, through September 7, 1978, are established as follows:

(1) District 1: 143,000 cartons;
(2) District 2: 407,000 cartons;
(3) District 3: Unlimited.

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

2. Paragraph (a)(1) in § 908.903 Valencia Orange Regulation 603 (43 FR 37679), is hereby amended to read:

(1) District 1: 205,000 cartons.

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

Dated: August 30, 1978.

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

[FR Doc. 78-24817 Filed 8-30-78; 11:37 am]

[3410-02]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 36; Docket No. AO-179-A43]

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the order based on industry proposals considered at a public hearing held October 12-14, 1977. More than the required two-thirds of dairy farmers affected, in a referendum, approved the order as amended.

The amended order changes the method of paying producers and cooperative associations, provides for lower pool supply plant shipping requirements, provides more flexibility for handlers in moving milk directly from farms to manufacturing plants, and expands, to a limited extent, the marketing area. The amended order reflects changed marketing conditions and will insure orderly marketing in the area.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing, issued September 20, 1977, published September 26, 1977 (42 FR 48886).

Notice of Extension of Time for filing briefs, issued November 25, 1977, published November 30, 1977 (42 FR 60927).

Recommended Decision, issued March 31, 1978, published April 6, 1978 (43 FR 14478).

Notice of Extension of Time for filing exceptions to the recommended decision, issued April 24, 1978, published April 27, 1978 (43 FR 17963).

Notice of Extension of Time for filing exceptions to the recommended decision, issued May 11, 1978, published May 16, 1978 (43 FR 21004).

Final Decision, issued July 25, 1978, published July 31, 1978 (43 FR 33652).

FINDINGS AND DETERMINATIONS

The following findings and determinations are made for the Eastern Ohio-Western Pennsylvania order in this proceeding. They supplement those that were made when the order was first issued and when the order was amended. The previous findings and determinations are hereby ratified and affirmed, except where they may conflict with those set forth below.

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. The hearing was held according 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 (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Eastern Ohio-Western Pennsylvania order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the Eastern Ohio-Western Pennsylvania marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The Eastern Ohio-Western Pennsylvania order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1036.85.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

GENERAL PROVISIONS

Sec.
1036.1 General provisions.

DEFINITIONS

1036.2 Eastern Ohio-Western Pennsylvania marketing area.
1036.3 Route disposition.
1036.4 [Reserved]
1036.5 Distributing plant.
1036.6 Supply plant.
1036.7 Pool plant.
1036.8 Nonpool plant.
1036.9 Handler.
1036.10 Producer-handler.
1036.11 [Reserved]
1036.12 Producer.
1036.13 Producer milk.
1036.14 Other source milk.
1036.15 Fluid milk product.
1036.16 Fluid cream product.
1036.17 Filled milk.
1036.18 Cooperative association.
1036.19 Reload point.

HANDLER REPORTS

1036.30 Reports of receipts and utilization.
1036.31 Payroll reports.
1036.32 Other reports.

CLASSIFICATION OF MILK

Sec.
1036.40 Classes of utilization.
1036.41 Shrinkage.
1036.42 Classification of transfers and diversions.
1036.43 General classification rules.
1036.44 Classification of producer milk.
1036.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1036.50 Class prices.
1036.51 Basic formula price.
1036.52 Plant location adjustments for handlers.
1036.53 Announcement of class prices.
1036.54 Equivalent price.

UNIFORM PRICE

1036.60 Handler's value of milk for computing uniform price.
1036.61 Computation of uniform price.
1036.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1036.70 Producer-settlement fund.
1036.71 Payments to the market administrator.
1036.72 [Reserved]
1036.73 Payments to producers and to cooperative associations.
1036.74 Butterfat differential.
1036.75 Plant location adjustments for producers and on nonpool milk.
1036.76 Payments by handler operating a partially regulated distributing plant.
1036.77 Adjustment of accounts.
1036.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1036.85 Assessment for order administration
1036.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1036.110 Agency.
1036.111 Composition of the agency.
1036.112 Term of office.
1036.113 Selection of agency members.
1036.114 Agency operating procedure.
1036.115 Powers of the agency.
1036.116 Duties of the agency.
1036.117 Advertising, research, education, and promotion program.
1036.118 Limitation of expenditures by the agency.
1036.119 Personal liability.
1036.120 Procedure for requesting refunds.
1036.121 Duties of the market administrator.
1036.122 Liquidation.

AUTHORITY: The provisions of this Part 1036 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

SOURCE: §§ 1036.1 to 1036.86 appear at 37 FR 25326, Nov. 30, 1972, unless otherwise noted.

§§ 1036.110 to 1036.122 appear at 38 FR 8173, Mar. 29, 1973, unless otherwise noted.

GENERAL PROVISIONS

§ 1036.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter are

hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1036.2 Eastern Ohio-Western Pennsylvania marketing area.

The "Eastern Ohio-Western Pennsylvania marketing area," hereinafter called the "marketing area," means all the territory within the boundaries of the following geographical units, including all waterfront facilities connected therewith and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within the listed geographical units:

(a) "Zone 1" includes:

(1) In Ohio:

(i) The following counties in their entirety:

Ashland, Ashtabula, Carroll, Geauga, Harrison, Holmes, Monroe, Portage, Tuscarawas, and Wayne.

(ii) In Guernsey County: The townships of Londonderry, Millwood, and Oxford.

(iii) In Stark County: Sugar Creek Township.

(iv) In Trumbull County: The townships of Bazetta, Bloomfield, Bristol, Champion, Farmington, Fowler, Greene, Gustavus, Hartford, Johnston, Kinsman, Mecca, Mesopotamia, Southington, and Vernon.

(2) In Pennsylvania:

(i) The following counties in their entirety:

Crawford.
Erie.
Venango.

(ii) In Clarion County: The townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby.

(b) "Zone 2" includes:

(1) In Ohio:

(i) The following counties in their entirety:

Belmont, Columbiana, Jefferson, Lorain, Mahoning, Medina, and Summit.

(ii) Stark County (except Sugar Creek Township).

(iii) In Trumbull County: The townships of Braceville, Brookfield, Howland, Hubbard, Liberty, Lordstown, Newton, Warren, Weathersfield, and Vienna.

(2) In Pennsylvania:

(i) The following counties in their entirety:

Armstrong.
Beaver.
Butler.
Fayette.
Greene.
Lawrence.
Mercer.
Washington.

(ii) Westmoreland County (except the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward and The townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair).

(3) In West Virginia, the following counties in their entirety:

Barbour.
Brooke.
Doddridge.
Hancock.
Harrison.
Lewis.
Marion.
Marshall.
Monongalia.
Ohio.
Preston.
Randolph.
Taylor.
Tucker.
Tyler.
Upshur.
Wetzel.

(c) "Zone 3" includes Cuyahoga and Lake counties, Ohio, in their entirety.

(d) "Zone 4" includes Allegheny County, Pa., in its entirety.

§ 1036.3 Route disposition.

"Route disposition" means a delivery (except to a plant), either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine), of a fluid milk product classified as Class I pursuant to § 1036.40(a)(1).

§ 1036.4 [Reserved]

§ 1036.5 Distributing plant.

"Distributing plant" means a plant in which fluid milk products approved by a duly constituted health authority for fluid consumption, or filled milk, are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1036.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority, or filled milk, is transferred or diverted during the month to a pool plant.

§ 1036.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing pool plant that has:

(1) Route disposition, except filled milk, during the month of not less than 50 percent (40 percent for each month of April through August) of the total receipts of fluid milk products, except filled milk, that are approved by a duly constituted health authority for fluid consumption and that are physically received at such plant or diverted as producer milk pursuant to § 1036.13 to plants other than those qualified as pool plants pursuant to this paragraph; and

(2) Route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of the receipts described in paragraph (a)(1) of this section.

(b) A supply plant from which not less than 40 percent during the months of September, October and November and not less than 30 percent in all other months, of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received at such plant from dairy farmers (including milk diverted from the plant as producer milk pursuant to § 1036.13 but excluding milk received as diverted milk) and handlers defined in § 1036.9(c) is transferred or diverted to and physically received in the form of fluid milk products, except filled milk, at pool plants qualified under paragraph (a) of this section or disposed of as route disposition in the marketing area.

(c) A plant that qualified as a pool plant under paragraph (b) of this section on the basis of its transfers and diversions to pool plants (exclusive of its route disposition in the marketing area) in each of the immediately preceding months of September through February shall be a pool plant for the months of March through August unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant.

(d) A plant(s) that is approved by a duly constituted health authority to handle milk for fluid consumption, that is operated by a cooperative association, and from which during the month the quantity of fluid milk products (except filled milk) shipped to pool plants qualified pursuant to paragraph (a) of this section plus the milk physically received at such plants by direct delivery from the farms of producer members of the cooperative association is not less than 65 percent in any month of September through April and not less than 50 percent in any other month of the cooperative association members' producer milk. If the cooperative association operating a plant qualified as a pool plant pursuant to this paragraph files with the market administrator prior to the first day of any month a written request for nonpool status for such plant, the plant shall be a nonpool plant for such month and for each of the next 11 months in which it does not qualify as a pool plant pursuant to paragraph (a), (b) or (c) of this section.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area

as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

§ 1036.8 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing, or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means:

(1) A nonpool plant that is a distributing plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to its route disposition in the marketing area that is not priced and pooled pursuant to any order issued pursuant to the Act.

(d) "Unregulated supply plant" means:

(1) A nonpool plant that is a supply plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to fluid milk products which were received at a pool plant from such a plant and which are not priced and pooled pursuant to any order issued pursuant to the Act.

§ 1036.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool plant of another handler to a nonpool plant;

(c) Any cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any producer-handler; and

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

§ 1036.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his own farm production and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1036.11 [Reserved]

§ 1036.12 Producer.

(a) "Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk for fluid consumption in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1036.13 from a pool plant to a nonpool plant or another pool plant.

(b) "Producer" shall not include a person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II or Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

§ 1036.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer which is:

(a) With respect to a handler defined in § 1036.9(a):

(1) Received at the handler's pool plant directly from the producer, excluding receipts of milk diverted from another pool plant.

(2) Received at the handler's pool plant from a handler defined in § 1036.9(c) that does not operate a pool plant;

(3) Diverted pursuant to paragraphs (e), (f), and (g) of this section for the handler's account from his pool plant to a nonpool plant that is not a producer-handler plant; or

(4) Diverted for the handler's account from his pool plant to another pool plant, subject to the conditions set forth in paragraph (h) of this section;

(b) With respect to a handler defined in § 1036.9(b), diverted pursuant to paragraphs (e), (f), and (g) of this section for the handler's account from a pool plant of another handler to a nonpool plant that is not a producer-handler plant;

(c) With respect to a handler defined in § 1036.9(c) that does not operate a pool plant, received by the handler from the producer's farm in excess of the producer's milk that is received by a pool plant operator pursuant to paragraph (a)(2) of this section; and

(d) With respect to a handler defined in § 1036.9(c) that also operates a pool plant, received by the handler from the producer's farm.

(e) During April through August and subject to the conditions of paragraph (g) of this section, the operator of a pool plant or a cooperative association may divert the milk of a producer without limit.

(f) During September through March and subject to the conditions of paragraph (g) of this section:

(1) The operator of a pool plant that is not a cooperative association may divert any producer milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (f)(2) of this section in accordance with one of the following alternatives:

(i) The milk of an individual producer may be diverted for not more days of production of his producer milk than is physically received at pool plant; or

(ii) The plant operator may divert an aggregate quantity of milk of producers not exceeding 40 percent of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator.

(2) A cooperative association may divert the milk of a producer during the month in accordance with one of the following alternatives:

(i) The milk of an individual producer may be diverted for not more days of production of his producer milk than is physically received at pool plants; or

(ii) The cooperative association may divert an aggregate quanitty of milk not exceeding 40 percent of the producer milk that the cooperative association causes to be delivered during the month to pool plants.

(g) The following conditions shall apply with respect to milk diverted pursuant to paragraphs (a)(3) and (b) of this section:

(1) Milk of a producer shall not be eligible for diversion unless the milk of such producer was physically received at least once as producer milk at a pool plant and the dairy farmer

has continuously retained producer status under the order since that time;

(2) During each month of September through November at least one day's production of milk of a producer must be received at a pool plant for the milk of such producer to be eligible for diversion that month pursuant to paragraph (f)(1)(ii) and (2)(ii) of this section;

(3) Such milk shall be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted;

(4) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be deemed to have been received at such pool plant and shall not be producer milk;

(5) If milk is diverted in excess of the limit by a handler who elects to divert on the basis of days of production, only that milk of the individual producer which was received at a pool plant or which was diverted to a nonpool plant for not more days of production than is physically received at a pool plant shall be considered as producer milk;

(6) If milk is diverted in excess of the percentage limit by a handler who elects to divert on an aggregate basis, eligibility as producer milk shall be forfeited on a quantity of milk equal to such excess;

(7) In cases of excess diversions, the diverting handler shall specify the dairy farmer's deliveries that are ineligible as producer milk. If the handler fails to do so, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler; and

(8) Milk diverted to an other order plant shall be producer milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of the other order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order.

(h) Milk diverted from a pool plant to another pool plant shall be deemed to have been received by the diverting handler at the location of the pool plant to which diverted.

§ 1036.14 Other source milk.

"Other source milk" means the skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source except producer milk, fluid milk products and bulk fluid cream products from pool plants, and fluid milk products and bulk fluid cream products in inventory at the beginning of the month;

(b) Receipts of packaged fluid cream products from other plants;

(c) Products, other than fluid milk products, bulk fluid cream products and Class II products listed in § 1036.40(b)(3), from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for.

§ 1036.15 Fluid milk product.

"Fluid milk product" means the following products or mixtures in either fluid or frozen form, including such products or mixtures that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, milk shake mixes containing less than 12 percent total milk solids, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. The term "fluid milk product" shall not include those products and mixtures listed in § 1036.40(b) (1) and (3), and (c)(1).

§ 1036.16 Fluid cream product.

"Fluid cream product" means cream (including aerated cream and sterilized cream) or a mixture of cream and milk or skim milk containing 10.5 percent or more butterfat.

§ 1036.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1036.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

§ 1036.19 Reload point.

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. A reload operation on the premises of a plant shall be considered a part of the plant operation.

Handler Reports

§ 1036.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, reports of receipts and utilization for such month shall be made to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler operating a pool plant shall report for each of his pool plants:

(1) Receipts of skim milk and butterfat contained in or represented by:

(i) Producer milk, showing in the case of milk received directly from each producer the pounds and butterfat test and the number of days of production involved for each producer;

(ii) Fluid milk products and fluid cream products from other pool plants and from a handler defined in § 1036.9(c) that also operates a pool plant; and

(iii) Other source milk;

(2) Inventories at the beginning and end of the month of the following products:

(i) Fluid milk products; and

(ii) Fluid cream products, showing separately such inventories in bulk form and in packaged form;

(3) The utilization or disposition of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately:

(i) Total route disposition and route disposition in the marketing area, showing separately such disposition of filled milk inside and outside the marketing area; and

(ii) Transfers and diversions to other plants; and

(4) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe;

(b) Each cooperative association shall report:

(1) The quantities of skim milk and butterfat contained in milk from producers for which it is the handler pursuant to § 1036.9 (b) and (c), showing:

(i) The quantity of milk delivered to each plant; and

(ii) For each producer the pounds and butterfat test of the milk and the number of days of production involved;

(2) The utilization of all skim milk and butterfat required to be reported

pursuant to subparagraph (1) of this paragraph, except that contained in producer milk described in § 1036.13(a)(2); and

(3) Such other information with respect to its receipts and utilization of skim milk and butterfat as the market administrator may prescribe; and

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section except that receipts of bottling grade milk from dairy farmers shall be reported in lieu of receipts of producer milk. Such report shall include a separate statement showing the amount of reconstituted skim milk in route disposition in the marketing area.

§ 1036.31 Payroll reports.

(a) On or before the 18th day after the end of each month, each handler who elects pursuant to § 1036.73(d) to pay producers shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during such month:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer;

(5) The net amount of payment to the producer; and

(6) The dates such payments were made.

(b) On or before the 20th day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1036.76(a) shall report to the market administrator with respect to milk received from each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month:

(1) The name of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat content of such milk;

(4) The amount and nature of any deductions, as authorized by the dairy farmer, from the payment for such milk; and

(5) The rate of payment per hundredweight and the net amount paid each dairy farmer.

§ 1036.32 Other reports.

(a) On or before the 22nd day of each month each handler described in § 1036.9(a), except a cooperative association which operates a pool plant or a handler who elects to pay producers pursuant to § 1036.73(d), shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The identity of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1036.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) On or before the 22nd day of each month each handler defined in § 1036.9 (a), (b) and (c) except a handler who is required to file reports pursuant to paragraph (a) of this section shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The total pounds of producer milk;

(2) The total deductions as authorized by the producers to be made from the partial payment for such milk;

(3) The total pounds of milk received from a handler described in § 1036.9(c); and

(4) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(c) On or before the 8th day after the end of each month, each handler described in § 1036.9(a), except a cooperative association which operates a pool plant or a handler who elects to pay producers pursuant to § 1036.73(d), shall report to the market administrator the following information with respect to its receipts of milk during such month:

(1) The identity of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer and its average butterfat content;

(3) The amount and nature of any deductions, as authorized by the producer, to be made from the final payment for such milk;

(4) The total pounds of skim milk and butterfat received from a handler described in § 1036.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(d) On or before the second day prior to the reporting dates specified in paragraphs (a) and (c) of this section, each cooperative association that operates a pool plant from which bulk fluid milk products were transferred or diverted to pool plants of other handlers within the time periods described in paragraphs (a) and (c) of this section shall report to each such pool plant operator and the market administrator the name and location of the transferor-plant and the total pounds and butterfat content of the bulk fluid milk products transferred or diverted from the plant.

(e) In addition to the reports required pursuant to paragraphs (a) through (d) of this section and §§ 1036.30 and 1036.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(f) Each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may prescribe.

(g) Each handler who operates another order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator.

Classification of Milk

§ 1036.40 Classes of utilization.

Except as provided in § 1036.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1036.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) and (c) of this section; and

(2) Not accounted for as Class II or Class III milk.

(b) *Class II milk.* Except as provided in paragraph (c) of this section, Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product;

(2) In inventory at the end of the month of packaged fluid cream products;

(3) Used to produced yogurt, sour cream, sour cream products (e.g., dips), cottage cheese, and cottage cheese curd; and

(4) Disposed of in bulk as fluid milk products or fluid cream products to any commercial food processing establishment (other than a milk or filled milk plant) for the manufacture of packaged food products (other than milk products and filled milk) for consumption off the premises.

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts and frozen dessert mixes, eggnog, frozen cream, butter, cheese (excluding cottage cheese and cottage cheese curd), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, any product containing 6 percent or more nonmilk fat (or oil), milk shake mixes containing 12 percent or more total milk solids, and sterilized products (except fluid cream products and those products listed in paragraph (b)(3) of this section) in hermitically sealed glass or metal containers;

(2) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of fluid milk products and bulk fluid cream products at the end of the month;

(5) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(6) Skim milk and butterfat, respectively, in each pool plant's shrinkage, but not in excess of:

(i) Two percent of producer milk physically received at the plant (except that received from a handler defined in § 1036.9(c));

(ii) Plus 1.5 percent of milk received from a handler defined in § 1036.9(c) and of milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(iii) Plus 0.5 percent of producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no percentage shall apply;

(iv) Plus 1.5 percent of bulk fluid milk products received by transfer from other pool plants;

(v) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II or Class III classification was requested by the operators of both plants;

(vi) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II or Class III classification is requested by the handler; and

(vii) Less 1.5 percent of the quantity of bulk fluid milk products transferred to other plants that does not exceed such quantity to which percentages were applied pursuant to subdivisions (i), (ii), (iv), (v), and (vi) of this subparagraph;

(7) Skim milk and butterfat, respectively, in shrinkage of other source milk assigned pursuant to § 1036.41(b)(2); and

(8) Skim milk and butterfat, respectively, in shrinkage of milk from producers that is diverted from a pool plant to a non pool plant by a cooperative association acting as a handler pursuant to § 1036.9(b) or in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1036.9(c), but not in excess of 0.5 percent of the receipts of milk from producers, exclusive of such receipts for which farm weights are used as the basis of receipt at the plant to which delivered.

§ 1036.41 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1036.40(c)(6); and

(2) Other source milk in the form of bulk fluid milk products exclusive of that specified in § 1036.40(c)(6).

§ 1036.42 Classification of transfers and diversions.

Skim milk or butterfat in the form of a fluid milk product or a bulk fluid cream product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after the computations pursuant to § 1036.44(a)(13) and the corresponding step of § 1036.44(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.44(a)(7) and the corresponding step of § 1036.44(b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.44(a)(12) or (13) and the corresponding steps of § 1036.44(b), the skim milk and butterfat so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler plant;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of paragraph (c) (1) and (2) of this section are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from paragraph (c)(3) of this section:

(1) The transferring or diverting handler claims classification as Class II or Class III in his report submitted pursuant to § 1036.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk (approved by a duly constituted health authority

for fluid consumption) for such nonpool plant;

(iii) Class I utilization (exclusive of that resulting from transfers of fluid milk products to pool plants and other order plants) in excess of that assigned pursuant to paragraphs (c)(3)(i) and (ii) of this section shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant and any remaining Class I utilization (including that resulting from transfers of fluid milk products to pool plants and other order plants) shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool plants and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class III milk to the extent Class III utilization is available and the remainder as Class II milk; and

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in paragraph (d)(1), (2), or (3) of this section:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (d)(3) of this section);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with the respective market administrators, movments in bulk form shall be classified as Class III milk to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for only two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk and butterfat allocated to the other class shall be classified as Class III milk; and

(6) If the form in which any fluid milk product is tranferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1036.40.

§ 1036.43 General classification rules.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1036.30 and shall compute for each handler the total pounds of skim milk and butterfat in each class: *Provided*, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1036.44 Classification of producer milk.

After making the computations pursuant to § 1036.43, the market administrator shall determine the classification of producer milk for each handler as follows: *Provided*, That the classification of producer milk for which a cooperative association is the handler pursuant to § 1036.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1036.40(c)(6);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged and fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to paragraph (a)(7)(v) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III milk pursuant to § 1034.40(c)(5) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products received from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1036.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product or a fluid cream product) that was not subtracted pursuant to paragraphs (a)(4) and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) and bulk fluid cream products for which appropriate health approval is not established and receipts of fluid milk products and bulk fluid cream products, from unidentified sources;

(iii) Receipts of fluid milk products and bulk fluid cream products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to paragraph (a)(2) of this section; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in bulk fluid cream products received from nonpool plants that were not subtracted pursuant to paragraph (a)(7)(iii) of this section and in packaged fluid cream products in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) of this section;

(9) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II and Class III (beginning with Class III), but not in excess of such quantities:

(i) Receipts of fluid milk products from an unregulated supply plant that

were not subtracted pursuant to paragraph (a)(2) and (7)(iv) of this section:

(*a*) For which the handler requests Class III classification; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants that were not subtracted pursuant to paragraph (a)(7)(v) of this section; and

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to paragraph (a)(7)(v) of this section, in excess of similar transfers to such plant, if Class III classification was requested by the operator of such plant and the handler;

(10) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products and bulk fluid cream products;

(11) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to paragraph (a)(1) of this section;

(12) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to paragraphs (a)(2), (7)(iv), and (9)(i) of this section;

(13) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant that are in excess of similar transfers to the same plant and that were not subtracted pursuant to paragraphs (a)(7)(v) and (9)(ii) of this section:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1036.45(a) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(14) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products received from pool plants of other handlers according to the classification of such products pursuant to § 1036.42(a);

(15) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of milk from a handler defined in § 1036.9(c) that also operates a pool plant;

(16) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1036.44(a)(16) and the corresponding step of § 1036.44(b).

§ 1036.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1036.44(a)(13) and the corresponding step of § 1036.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the classification to which such receipts are allocated pursuant to § 1036.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products and bulk fluid cream products to an other order plant the classification to which the skim milk and butterfat in such fluid milk products and bulk fluid cream products were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such classification arising in the verification of such report.

(d) On or before the 20th day of each month, report to each cooperative association that so requests the class utilization of milk received during the preceding month by each handler from producers who are members of such association, prorating to such receipts the class utilization of all producer receipts of such handler.

Class Prices

§ 1036.50 Class prices.

Subject to the provisions of § 1036.52, the class prices per hundredweight for milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The class I price shall be the basic formula price for the second preceding month plus $1.85.

(b) *Class II Price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

[37 FR 25326, Nov. 30, 1972, as amended at 39 FR 30926, Aug. 27, 1974; 40 FR 6315, Feb. 11, 1975.]

§ 1036.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1036.52 Plant location adjustments for handlers.

(a) At a plant in the marketing area and outside Zone 1, the Class I price for producer milk shall be adjusted as follows:

(1) At a plant in Zone 2, the Class I price shall be increased 5 cents;

(2) At a plant in Zone 3, the Class I price shall be increased 8 cents; and

(3) At a plant in Zone 4, the Class I price shall be increased 10 cents.

(b) At a plant outside the marketing area, the Class I price shall be that applicable pursuant to paragraph (a) of this section at the location of the nearest of the cities here listed (Canton and Cleveland, Ohio; Erie, Pittsburgh, and Uniontown, Pa.; and Clarksburg, W. Va.) to such plant. Such Class I price shall be further adjusted by a reduction of 1.5 cents for

each 10 miles or fraction thereof that such plant is from the city hall of the nearest of the above named cities. Distances applied pursuant to this paragraph shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(d) For the purpose of computing location adjustments pursuant to paragraph (b) of this section, fluid milk products physically received at a pool plant from other pool plants shall be assigned any remainder of Class I milk at such plant that is in excess of 92.5 percent of the sum of producer milk receipts at the plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence beginning with receipts from the plant(s) at which the highest Class I price is applicable.

§ 1036.53 Announcement of class prices.

The market administrator shall announce publicly on or before the 5th day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1036.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1036.60 Handler's value of milk for computing uniform price.

The net pool obligation of each handler defined in § 1036.9 (a), (b), and (c) for each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1036.44(c) by the applicable class price, adjusted pursuant to § 1036.52;

(b) Add the amounts obtained from multiplying the overage deducted from each class pursuant to § 1036.44(a)(16) and the corresponding step of § 1036.44(b) by the applicable class price adjusted pursuant to §§ 1036.52 and 1036.74;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I or Class II price for the current month, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1036.44(a)(10) and the corresponding step of § 1036.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price at the pool plant and the Class III price, both for the current month, by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.44(a)(7) and (8) and the corresponding steps of § 1036.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1036.44(a)(7) (iv) and (v) and the corresponding steps of § 1036.44(b) the Class I price shall be adjusted to the location of the transferor plant; and

(e) Add the amount obtained from multiplying the Class I price adjusted for the location of the nearest nonpool plants from which an equivalent volume was received by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.44(a)(12) and the corresponding step of § 1036.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

[37 FR 25326, Nov. 30, 1972, as amended at 39 FR 30926, Aug. 27, 1974.]

§ 1036.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1036.60 for all handlers who filed the reports pursuant to § 1036.30 for the month, except those in default of payments required pursuant to § 1036.71 for the preceding month;

(b) Add and amount equal to the total value of the minus location adjustments applicable pursuant to § 1036.75;

(c) Subtract an amount equal to the total value of the plus location adjustments applicable pursuant to § 1036.75;

(c-1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(d) Add an amount equal to one-half the unobligated balance in the producer settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) the total hundredweight for which a value is computed pursuant to § 1036.60(e);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section any amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price plus 5 cents;

(h) Subtract for each of the months of April, May, June, and July the amount obtained by multiplying the hundredweight of producer milk specified in paragraph (e)(1) of this section by a rate that is equal to 6 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but not to exceed 25 cents;

(i) Add for each of the months of September, October, and November one-fourth of the total amount subtracted pursuant to paragraph (h) of this section for the preceding period of April through July, and add for the month of December the remainder of such total amount plus any interest earned on such total amount;

(j) Divide the amount resulting from the computations pursuant to paragraphs (g), (h), and (i) of this section by the hundredweight of producer milk specified in paragraph (e)(1) of this section; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

[37 FR 25326, Nov. 30, 1972, as amended at 38 FR 8173, Mar. 29, 1973.]

§ 1036.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce on or before:

(a) The fifth day of each month, the butterfat differential for the preceding month; and

(b) The 13th day of each month, the uniform price for the preceding month.

[37 FR 25326, Nov. 30, 1972, as amended at 41 FR 18056, Apr. 30, 1976.]

PAYMENTS FOR MILK

§ 1036.70 Producer-settlement fund.

(a) The market administrator shall establish and maintain a separate fund known as the "Producer-settlement fund", into which he shall deposit the payments made by handlers pursuant to §§ 1036.71, 1036.76, 1036.77 and 1036.78 and from which he shall make all payments pursuant to §§ 1036.73 and 1036.77.

(b) All amounts subtracted pursuant to § 1036.61(h) shall be deposited in the producer-settlement fund and set aside as an obligated balance until withdrawn for the purpose of effectuating § 1036.61(i).

§ 1036.71 Payments to the market administrator.

(a) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the third day prior to the end of each month an amount determined by multiplying the handler's receipts of producer milk during the first 15 days of such month by the Class III price for the preceding month, less:

(1) Any payments made by the handler on or before such date to individual producers (whose payments are not authorized to be collected by a cooperative association) for milk received during the 15-day period;

(2) Proper deductions authorized by producers from whom the handler received milk, except that the amount deducted for each producer shall not exceed the value (at the Class III price) of the milk received from the producer during the 15-day period; and

(3) With respect to a cooperative association in its capacity as a handler pursuant to § 1036.9 (a) or (c), any payments made to the market administrator pursuant to paragraph (c)(1) of this section.

(b) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 16th day after the end of each month an amount equal to such handler's value of milk for such month determined pursuant to § 1036.60(a), as adjusted by the butterfat differential specified in § 1036.74, and pursuant to § 1036.60 (b) through (e), less:

(1) Payments made by the handler pursuant to paragraph (a) of this section for such month;

(2) Payments, other than those specified in § 1036.73(d), that were made by the handler on or before such date to individual producers (whose payments are not authorized to be collected by a cooperative association) for producer milk received during such month;

(3) Proper deductions for the month that were authorized by producers from whom the handler received milk, except that the amount deducted for each producer shall not exceed the value of milk received from the producer during the month;

(4) The value at the weighted average price applicable at the location of the plants from which received plus 5 cents with respect to other source milk for which a value is computed pursuant to § 1036.60(e); and

(5) With respect to a cooperative association in its capacity as a handler pursuant to § 1036.9 (a) or (c), any payments made to the market administrator pursuant to paragraph (c)(2) of this section.

(c) Subject to paragraph (d) of this section, each handler operating a pool plant who receives bulk fluid milk products by transfer or diversion from a pool plant operated by a cooperative association, or who receives milk from a cooperative association in its capacity as a handler pursuant to § 1036.9(c) that also operates a pool plant, shall pay the following amount for such milk to the market administrator, who in turn shall pay to the cooperative association any net amount due it:

(1) On or before the third day prior to the end of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the Class III price for the preceding month. If the handler so elects, such price may be adjusted by the butterfat differential specified in § 1036.74 for the preceding month; and

(2) On or before the 16th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1036.42 by the applicable class price, as adjusted by the butterfat differential specified in § 1036.74, less any payment made by the handler pursuant to paragraph (c)(1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee-plant.

(d) The following conditions shall apply with respect to the payments prescribed in paragraphs (a), (b) and (c) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator; and

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or on any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(e) On or before the 25th day after the end of the month, each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (e)(1) of this section to route disposition in this marekting area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1036.72 [Reserved]

§ 1036.73 Payments to producers and to cooperative associations.

(a) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the last day of each month for milk for which payment pursuant to § 1036.71(a) and (c)(1) has been received by the market administrator. Such payment shall be at a rate per hundredweight equal to the Class III price for the preceding month less the amounts specified in § 1036.71(a).

(b) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 18th day after the end of each month for milk for which payments pursuant to § 1036.71(b) and (c)(2) have been received by the market administrator. Such payment shall be the uniform price computed pursuant to § 1036.61 for the month, subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1036.74 and 1036.75;

(2) Less the payments described in § 1036.71(b)(2) and paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1036.86;

(4) Less the authorized deductions specified in § 1036.71(b)(2); and

(5) Any adjustments for errors in calculating payments to an individual producer for the past months.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so

requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section.

(d) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

(1) The identify of the handler and the producer and the month to which the payment applies;

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer, and

(5) The net amount of payment to the producer.

(e) The following conditions shall apply with respect to the payments prescribed in paragraphs (a) through (d) of this section:

(1) If the date by which such payments are to be made falls on a Saturday or Sunday or on any day that is a national holiday, such payments need not to be made unitl the next day on which the market administrator's office is open for public business; and

(2) If the application of § 1036.71 (d)(2) or paragraph (e)(1) of this section results in a delay in the partial or final payments by handlers to the market administrator or by the market administrator to handlers, the corresponding partial or final payments prescribed in paragraphs (a) through (d) of this section may be delayed by the same number of days.

(f) If the market administrator does not receive the full payment required of a handler pursuant to § 1036.71, he shall reduce uniformly per hundredweight the payments due producers and/or cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler. The market administrator shall first complete the payment to producers and/or cooperative associations who have the oldest outstanding payments due them.

§ 1036.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent at a rate (rounded to the nearest one-tenth cent) determined by multiplying the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter pound at Chicago, as reported by the Department for the month by 0.115.

§ 1036.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a plant shall be adjusted according to the location of such plant at the rates set forth in § 1036.52.

(b) The weighted average price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price, except that the weighted average price shall not be less than the Class III price.

§ 1036.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1036.30 and 1036.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1036.60 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) Receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant;

(ii) Transfers from such nonpool plants to a pool plant or other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant is such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1036.60(e) and a credit in the amount specified in § 1036.71(a)(2)(ii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified below in paragraph (a)(1)(iii) of this section;

(iii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1036.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1036.7 (b) and (c), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of:

(i) The gross payments made by such handler for milk (adjusted to a 3.5-percent butterfat basis pursuant to § 1036.74) received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to paragraph (a)(1) of this section; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat in the plant's route disposition in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the plant;

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) Multiply the remaining pounds by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the weighted average price applicable at the location of the partially regulated distributing plant plus 5 cents (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (b)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

[37 FR 25326, Nov. 30, 1972, as amended at 38 FR 8173, Mar. 29, 1973]

§ 1036.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due the market administrator from such handler, due such handler from the market administrator, or due any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice. The market administrator shall offset any moneys due a handler against moneys due from such handler.

§ 1036.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1036.71, 1036.76, 1036.77, and 1036.85 shall be increased 1 percent beginning on the first day after the due date of such obligation and on the same day of each succeeding month until such obligation is paid.

Administrative Assessment And Marketing Service Deduction

§ 1036.85 Assessment for order administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 16th day after the end of the month 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk handled during the month as follows:

(a) Each handler with respect to his receipts of producer milk (including such handler's own-farm production and milk received from a cooperative association pursuant to § 1036.9(c)), fluid milk products transferred or diverted in bulk from a pool plant operated by a cooperative association and other source milk allocated to Class I pursuant to § 1036.44(a) (7) and (12) and the corresponding steps of § 1036.44(b), except such other source milk on which no handler obligation applies pursuant to § 1036.60(e); and

(b) Each handler in his capacity as the operator of a partially regulated distributing plant with respect to his route disposition in the marketing area in excess of the skim milk and butterfat subtracted pursuant to § 1036.76(b)(2).

§ 1036.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, the market administrator, in making payments to producers pursuant to § 1036.73, shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk of such producer (except a handler's own-farm production) for whom the marketing services set forth in this paragraph are not being performed by a cooperative association as determined by the Secretary. The moneys shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. The services shall be performed by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, the market administrator shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 17th day after the end of each month shall pay such deductions to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which a deduction was computed for each such producer.

Advertising and Promotion Program

§ 1036.110 Agency.

"Agency" means the body made up of the persons selected pursuant to § 1036.113, which is authorized to expend funds, made available pursuant to § 1036.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1036.111 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1036.113(b) with 1.5 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency member plus one additional Agency member for each additional full 5 percent of the participating producers it represents. Cooperative associations with less than 1.5 percent of the total participating producers that have elected not to combine pursuant to § 1036.113(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency member for the first full 1.5 percent plus one additional Agency member for each additional full 5 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all producers shall be considered participating producers.

§ 1036.112 Term of office.

The term of office of each member of the Agency shall be 1 year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1036.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more Agency members shall notify the market administrator of the name and address of each such member who shall serve at the pleasure of the cooperative.

(b) For the purpose of this section, cooperative associations may combine their participating producer members and, if such combined total is 1.5 percent or more of all participating producers, such cooperatives may select an Agency member(s) under the rules of § 1036.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than 1.5 percent of the total participating producers that have not elected to combine pursuant to paragraph (b) of this section shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this section, and annually thereafter, the market administrator shall notify such participating producers of their opportunity to nominate one or more producers as Agency members and shall specify the number of members to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an Agency member thus elected subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1036.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1036.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions of the advertising and promotion program within the scope of Agency authority pursuant to § 1036.110;

(b) Make rules and regulations to effectuate the terms and provisions of the advertising and promotion program;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1036.110 and 1036.117.

§ 1036.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1036.110 and 1036.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) Employ and fix the compensation of any person deemed necessary to its exercise of powers and performance of duties;

(f) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(g) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1036.17 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit all producers under this part;

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1036.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1036.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1036.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1036.120 Procedure for requesting refunds.

Any producer may apply for refund subject to the conditions set forth in this section.

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all his marketings against which an assessment is with-

held for the period from the date of his first marketing as a new producer through the end of such calendar quarter: *Provided;* That, such eligibility for refund shall not apply to a person who during the first 15 days of such December, March, June, or September, was a producer under a Federal order under which the same refund notification period applied and he did not appropriately submit a refund application during such period. This paragraph also shall be applicable to all producers during the period between the effective date of this paragraph and the beginning of the first full calendar quarter for which the opportunity exists for such producer to request a refund pursuant to paragraph (b) of this section.

(d) A producer who, with respect to any calendar quarter, has appropriately filed request for refund of advertising and promotion program assessments on his marketings of milk under another Federal order shall be eligible (on the basis of his request filed under the other order) for refund with respect to his producer milk under this order against which an assessment is withheld during such quarter.

§ 1036.121 **Duties of the market administrator.**

Except as specified in § 1036.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this section, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1036.113(c);

(b) Set aside the amount subtracted under § 1036.61(c-1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to a producer the amount of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer but not more than 5 cents per hundredweight of his milk for which deductions were made pursuant to § 1036.61(c-1).

(3) After the end of each calendar quarter, refund upon request pursuant to § 1036.120 to a producer the deductions applicable to his milk made pursuant to § 1036.61(c-1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this section, and thereafter with respect to a new producer, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1036.110 through 1036.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1036.122 **Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund.

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

Effective date: October 1, 1978.

NOTE.—The Agricultural Marketing Service has determined that this document contains major proposals requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107 and certifies that such statement has been prepared.

Signed at Washington, D.C., on: August 28, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-24637 Filed 8-30-78; 8:45 am]

[4410-10]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 252—LANDING OF ALIEN CREWMEN

Termination of Program for Issuance of Permanent Crewman's Landing Permits and Identification Cards (Form I-184); Effective Date

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule, postponement of effective date.

SUMMARY: The purpose of this order is to postpone the effective date of the final rule published at 43 FR 37173 on August 22, 1978.

EFFECTIVE DATE: The effective date of the above-cited regulation is postponed to September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, telephone 202-376-8373.

Dated: August 24, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-24476 Filed 8-30-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; Docket No. R-0152]

PART 226—TRUTH IN LENDING

Disclosure of Varying Payments Scheduled To Repay the Indebtedness

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On April 24, 1978, the Board of Governors published a proposed revision of interpretation § 226.808 of regulation Z (43 FR 17363). It would have permitted disclosure of the complete payment schedule (as required by § 226.8(b)(3)) on the reverse of the disclosure document or on a separate page or pages in any transaction in which the payment amounts vary, or, in certain enumerated transactions, disclosure of an abbreviated schedule that indicated the progression of the payment amounts. The Board has determined that the proposed revision of the interpretation should be withdrawn and the first alternative, disclosure of a complete payment schedule on the reverse of the disclosure document or on a separate page, should be incorporated into § 226.8(a) of regulation Z by amendment of that subsection, effective immediately. The present interpretation will remain unchanged, and official staff interpretations and public information letters permitting its use in types of transactions other than that described in the present interpretation will remain in effect. The proposed abbreviated payment schedules will not be permitted.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Dolores S. Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

SUPPLEMENTARY INFORMATION: (1) In response to a number of inquiries regarding the proper method of disclosure (pursuant to § 226.8(b)(3) of regulation Z) of payments scheduled to repay the indebtedness in consumer credit transactions in which the amounts of such payments vary, the Board of Governors proposed a revision of interpretation § 226.808 for public comment. The interpretation would have permitted the creditor (1) in any transaction which the amounts scheduled to repay the indebtedness vary, to provide the customer with a complete payment schedule on the reverse of the disclosure statement or on a separate page or pages (conspicuously referenced in the disclosure statement), notwithstanding the requirement of § 226.8(a) that all disclosures be made on one side of a single page, or (2) in certain enumerated transactions, to give the customer an abbreviated schedule of payments that would disclose the number of payments, the amount of certain payments, and a description of the variation in the payment amounts. In addition, the interpretation would have provided that non-credit items (such as certain credit life and disability insurance premiums) that are not included in the amount financed or in the finance charge must be excluded from the total of payments scheduled to repay the indebtedness. Finally, a number of public information letters and official staff interpretations would have been rescinded.

Eighty-two comments on the proposal were received by the Board. A majority of the comments favored adoption of the proposal with modifications, although a significant number of the comments expressed opposition to the proposal for policy reasons. Based on the comments received and its own analysis, the Board has decided to withdraw the proposed revision of the interpretation (including the position stated therein concerning inclusion of noncredit items in the total of payments). Instead, the Board is amending regulation Z to permit the first alternative (disclosure of a complete payment schedule on as many pages as necessary) in any transaction in which the payment amounts vary. The public information letters and official staff interpretations that the Board had proposed to rescind will remain in effect. These changes and the reasons therefor are discussed in greater detail below.

(2) The disclosure of a complete payment schedule on the reverse of the disclosure document or on a separate page or pages was favored by the majority of commenters. The Board finds that provision of such a schedule would not detract from, and in some cases may even enhance, the value of the disclosures to consumers. Comments were divided on whether or not there would be operational difficulties in providing a complete schedule of payments to customers. It should be pointed out that the provision of a separate schedule of payments is an alternative method of disclosure; creditors that would encounter operational difficulties may continue to give the schedule of payments with the other required disclosures.

The Board also wishes to point out that the bracketed words in the amendment to § 226.8(a) are to be used alternatively, i.e., the inappropriate bracketed words should be deleted when making the disclosure.

(3) The Board finds that use of additional examples in the interpretation would not serve to facilitate compliance with the regulation's requirements nor provide consumers with sufficient understandable information about their credit transactions. Therefore, the proposed revision of the interpretation is withdrawn.

A number of significant problems with respect to the examples in the interpretation were brought to the Board's attention by commenters. A number of comments addressed the need for more examples. First, graduated payment mortgages (such as the HUD-FHA program recently authorized by section 245 of the National Housing Act) have increasing payments for the first years of the note and, in the case of the FHA program, decreasing payments after the first 6 or 11 years (as a result of decreases in required mortgage insurance premiums). Commenters expressed their desire for examples to fit such programs.

Second, the examples did not incorporate one type of credit transaction with mortgage insurance premiums for which disclosure in accordance with the present interpretation had been approved in an official staff interpretation. Third, example II, transaction B permitted the use of an abbreviated schedule in transactions with irregular first or last payments. Commenters felt that similar deviations should be permitted for the other examples. Finally, a number of commenters suggested other, more irregular transactions (e.g., simple interest loans with monthly finance charge payments and quarterly principal payments) as proper subjects for abbreviated schedules.

The Board has determined that even if additional examples were provided only for GPM transactions, for other mortgage insurance transactions and for irregular first or last payments in the enumerated transactions, the number of examples would be at least doubled. Such a result appears unwarranted, particularly in light of present efforts to simplify the Truth in Lending Act and regulation Z.

Furthermore, while examples could be adapted to accommodate the present programs of creditors, developments in lending practices would invariably result in their inadequacy for disclosure under new programs. The Board would be faced with the alternatives of constant amendment of the interpretation or repetition of the present situation, whereby staff interpretations have expanded the scope of the current § 226.808 to permit its use in transactions other than those specifically set forth.

Commenters noted that verification of the accuracy of the annual percentage rate (APR) disclosure (either by the enforcement authorities or consumers) for creditors disclosing in accordance with the proposed examples would be impossible because there would be no disclosure of actual payment amounts. This verification problem exists now, but the proposal would have increased significantly the number of transactions in which abbreviated disclosures would be permitted. The solutions to this enforcement problem (requiring complete payment schedules at consummation or the ability to reproduce the estimated payment amounts at a later date) would be extremely burdensome to creditors.

Based on the concerns raised by commenters and its own opinion that the examples provide insufficient flexibility for the development of new lending programs, the Board has determined that withdrawal of the proposed interpretation, with provision of the complete payment schedule as an alternative, will provide creditors with a simple method of compliance in varing payment transactions. In addition, this alternative will provide the greatest amount of information to consumers in a readily understandable format.

(4) The proposed interpretation stated the position that the "total of payments scheduled to repay the indebtedness" included only the amount financed and the finance charge. This position was contrary to a number of public information letters issued by the staff that permit the inclusion in the total of payments of premiums for optional, cancellable credit life and disability insurance that are not financed and that are excluded from the finance charge by compliance with § 226.4(a)(5).

The comments on this portion of the proposal were negative. Commenters cited their reliance on the staff's position in developing their loan programs and criticized the disruption of these programs should the interpretation be adopted. Creditors that now offer these types of credit life and disability

insurance programs stated that they would either begin requiring insurance coverage of the customer or finance the premiums, which would result in increased finance charges to customers. Creditors also stated that calculation of the amounts of the varying payments at consummation would be extremely difficult with existing rate and payment charts.

The Board has decided that the permissibility of the inclusion of noncredit items in the total of payments will be given further consideration by the staff and will be addressed in an official staff interpretation.

(5) The Board had also proposed rescinding a number of public information letters and official staff interpretations that would have conflicted with the proposed interpretation. None of these letters and interpretations will now be rescinded. The letters dealing with the inclusion of credit life and disability insurance premiums in the total of payments (169, 632, 684, 735, 799, 833, the final paragraph of 834, and 850) will remain in effect pending issuance of an official staff interpretation on the subject.

Public information letters 1021 and 1186 will not be rescinded, as they are consistent with the Board's position concerning the treatment of mortgage insurance premiums. Public information letters 1158 and 1164 and official staff interpretations FC-0003, 0025, 0030, 0031, and 0104 will not be rescinded because the Board is reluctant to disrupt creditor practices in the disclosure of insurance premiums. It should be pointed out, however, that the Board believes that further expansion of the scope of the present interpretation through staff letters has been obviated by the amendment to § 226.8(a) permitting the schedule to be placed on a separate page, and the staff does not intend to respond favorably to future requests for such expansion.

(6) In accordance with 5 U.S.C. 553(d)(i), the effective date of the amendment need not be delayed because it is a substantive rule that relieves a restriction.

(7) Therefore, pursuant to the authority granted in 15 U.S.C. 1604 (1970), the Board hereby amends 12 CFR Part 226, effective August 31, 1978, by adding the following to the end of § 226.8(a):

§ 226.8 Credit other than open end—specific disclosures.

(a) *General rule.* * * * Notwithstanding the provisions of paragraphs (a) (1) and (2) of this section, a creditor may, in any transaction in which the payments scheduled to repay the indebtedness vary, satisfy the requirements of § 226.8(b)(3) with respect to the number, amount, and due dates or periods of payments by disclosing the required information on the reverse of the disclosure statement or on a separate page(s): *Provided*, That the following notice appears with the other required disclosures: "Notice: see (reverse side) (accompanying statement) for the schedule of payments."

* * * * *

By order of the Board of Governors, August 23, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-24598 Filed 8-30-78; 8:45 am]

[6210-01]

[Reg. Z; Docket No. R-0164]

PART 226—TRUTH IN LENDING

Minor Irregularities—Maximum Irregular Period Limits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: The Board hereby adopts an amendment to Interpretation § 226.503 of regulation Z, which permits certain irregular payment amounts and payment periods to be considered regular for purposes of calculating the annual percentage rate on consumer credit transactions. This amendment provides that in transactions payable monthly with a term of 10 years or more, an irregular first period of up to 62 days may be treated as though it were a regular period and the resulting payment irregularities may be disregarded. It is intended to simplify computation of the annual percentage rate in long term transactions involving unequal payments, including graduated payment mortgages.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3867.

SUPPLEMENTARY INFORMATION: On June 1, 1978, the Board of Governors published for comment an amendment to regulation Z Interpretation § 226.503 which would expand its coverage to include certain long term real property transactions, such as graduated payment mortgages. The former version of § 226.503 allowed first payment periods between 20 and 50 days to be treated as if they were regular for purposes of the annual percentage rate calculation, only in transactions otherwise payable in equal installments. Since graduated payment mortgages by their very nature involve unequal installments, creditors offering such mortgages, for example, under the HUD/FHA section 245 experimental financing program, were formerly unable to take advantage of the minor irregularities provision.

This amendment will not allow first periods of up to 62 days to be treated as if they were regular for purposes of computing annual percentage rates in all transactions which are payable monthly and which have a scheduled term of 10 years or more, whether or not the monthly installments are equal. The Board believes that this expansion of the minor irregularities provision will simplify rate computations in such transactions while having a negligible effect on the accuracy of the rate.

When the amendment was originally proposed, comment was specifically solicited on whether the restrictions placed on application of the amendment should be relaxed or strengthened. In light of the comments, the amendment has been revised in its final form in four ways:

(1) It has been expanded to apply to all types of transactions instead of being limited to real property transactions. As pointed out by several commenters, the accuracy of the annual percentage rate depends on the time periods and payment amounts involved rather than on the character of the underlying transaction. Therefore, the Board sees no reason to limit this special rule to transactions secured by real property.

(2) The minimum term of a transaction qualifying for use of this special rule has been reduced from 15 years to 10 years. The Board considers that disregarding these slight irregularities will have a negligible impact on the accuracy of the rate, even in transactions with 10 year terms.

(3) It has been expanded to apply to irregularities in payment amounts resulting from the payment period irregularities. The amendment as proposed dealt only with irregular first periods and not with irregular payment amounts. However, the initial payment will often be irregular as a result of a first period irregularity, for example, when interest for the extra days in the first period is collected, not at closing, but either with the first payment or one month prior to the first regular payment. The final amendment has been revised to provide that such payment irregularities may also be disregarded.

(4) It has been revised to clarify that this special rule applies to certain long term transactions even if they convert to demand status in less than 10 years. As revised, the amendment applies when the "scheduled amortization" of

the obligation is at least 10 years. This revision was felt necessary to clarify that the special rule would apply to long term mortgages with demand features, but would not apply to short term balloon payment mortgages. Some mortgages are due and payable at the end of a stated period, for example, five years, but since the payments are based on a 20-year amortization schedule, a large "balloon payment" must be made at the end of five years. Such transactions are not covered by the amendment. Other mortgages, however, are written for a stated period, for example, one year, with the provision that they shall be payable on demand thereafter, provided that until demand is made, payments based on a longer amortization schedule shall continue to be made until the obligation is paid in full. Creditors offering this type of transaction are currently permitted, pursuant to Board Interpretation § 226.816, to make disclosures based on the longer amortization schedule (provided it is also stated that the loan is payable on demand after one year and that disclosures are based on the longer period). Creditors choosing to disclose on this basis, therefore, will be permitted to take advantage of the amendment to § 226.503, provided the specified amortization period is at least 10 years and the other criteria are met.

All of the commenters who addressed the question of whether the amendment should be limited to programs requiring customers to pay interest for the irregular portion of the first period opposed such a restriction, and the Board concurs. Although such a requirement would insure somewhat greater accuracy of the calculated rate, the Board believes it unwise to impose that restriction for several reasons: (a) it does not have a great impact on accuracy of the rate, whether interest for the irregular period is paid or not; (b) such a requirement does not apply to transactions falling within the original minor irregularities provisions; and, perhaps most importantly, (c) it seems undesirable to require creditors to charge customers where they otherwise might not do so, in order to qualify for this special treatment.

A few commenters questioned whether the amendment was intended to eliminate the 20-day minimum for the first period, and urged that this minimum be kept so as to avoid any understatement of the annual percentage rate. The Board believes that this restriction is unnecessary since treating even a first period of one day as if it were regular will have a negligible effect on the rate in long-term transactions. The amendment, therefore, will allow any first period from zero to 62 days to be considered regular.

Accordingly, in consideration of the foregoing and pursuant to the authority granted in 15 U.S.C. 1604 (1968), the Board amends Official Board Interpretation of regulation Z, 12 CFR Part 226.503, effective immediately, by adding to the end thereof the following:

§ 226.503 Minor irregularities—maximum irregular period limits.

* * * * *

Notwithstanding the above or the language in § 226.5(d) that limits the minor irregularities provisions to transactions that are "otherwise payable in equal installments scheduled at equal intervals," the following rule may apply.

An initial payment period of 62 days or less may be treated as though it were regular and an irregular initial payment or any portion thereof resulting from the application of a rate to the balance for such an irregular period may be disregarded if:

(1) The scheduled amortization of the obligation (the date from which the finance charge begins to accrue to the date of the final scheduled payment) is at least 10 years, and

(2) The obligation is otherwise payable in monthly installments.

By the order of the Board of Governors, August 23, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-24600 Filed 8-30-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 78-SO-42]

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

Alteration of Transition Area, Chattanooga, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the 700-foot transition area in the vicinity of Chattanooga, Tenn. This action provides necessary additional airspace for accommodation of the proposed ILS Runway 2 Standard Instrument Approach Procedure to Lovell Field.

EFFECTIVE DATE: 001 G.m.t., September 21, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone, 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on Monday, June 26, 1978 (43 FR 27559), which proposed the alteration of the Chattanooga, Tenn., transition area. No objections were received from this Notice.

DRAFTING INFORMATION

The principal authors of this document are Ronald T. Niklasson, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, Subpart G § 71.181 (43 FR 440) of Part 71 of the Federal Aviation Regulations (14 CFR 71 is amended, effective 0001 G.m.t., September 21, 1978, as follows:

CHATTANOOGA, TENN.

"* * * Lovell Field: within a 6.5-mile radius * * *" is deleted, and

"* * * Lovell Field; within a 4.5 miles west and 9.5 miles east of the south ILS localizer course extending from the 19- and 15-mile radius areas to 18.5 miles south of the OM; within a 6.5 mile radius * * *" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of The Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga, on August 18, 1978.

LONNIE D. PARRISH,
Acting Director, Southern Region.

[FR Doc. 78-24395 Filed 8-30-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SO-53]

PART 73—SPECIAL USE AIRSPACE

Revocation of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes Restricted Area R-3005C in the vicinity of Fort Stewart, Ga. The U.S. Army has advised the FAA they no longer use this restricted area. This action returns airspace for public use.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Admininstration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone, 202-426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to subpart B of part 73 of the Federal Aviation Regulations (14 CFR part 73) is to revoke Restricted Area R-3005C. The U.S. Army has requested that Restricted Area R-3005C be rescinded because they no longer utilize this area, and the FAA concurs with this action since the restricted airspace will be released for public use. Section 73.30 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 678).

Since this amendment returns the designated airspace to the public use without any anticipated adverse effects, it is an action for which the public would have no objection; further, the FAA concludes that it is in the public interest to eliminate the resulting restrictions on flights in the affected area; therefore, I find that notice and public procedure thereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.30 of the Federal Aviation Regulations (14 CFR part 73) as republished (43 FR 678) is amended, effective 0901 GMT, November 2, 1978, by revoking the designation of R-3005C, Fort Stewart, Ga.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and CFR 11.69.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on August 22, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-24396 Filed 8-30-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-WA-13]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Establishment of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment established the United States portion of Canadian J/HL route between Williams Lake, British Columbia, Canada, and Bellingham, Wash., for a distance of less than 4 miles. This action reduces the flight planning and communication time required for the use of the route.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone, 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is to designate the United States portion of a principally Canadian route from Bellingham, Wash., direct to Williams Lake, British Columbia, Canada, as Jet Route No. 534. The designation of this route as a jet route at the request of the Canadian Department of Transport reduces the time required for flight planning and communicating. The United States portion of the route lies in a remote area along the Canadian border which has light air traffic conditions.

Because this action merely extends a Canadian Jet Route (J/HL 534) approximately 3.5 miles into the United States and is not anticipated to have a significant effect on current U.S. flight operations, it is a minor matter on which the public would have no particular desire to comment; therefore, I find that notice and public procedure thereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 714) is amended, effective 0901, G.m.t., November 2, 1978, as follows:

Jet Route No. 534 is added to read as follows:

"Jet Route No. 534. From Bellingham, Wash., to Williams Lake, British Columbia, Canada, excluding the airspace within Canada."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Washington, D.C., on August 17, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-24394 Filed 8-30-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 9041]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

Capital Builders, Inc. Et Al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this order, among other things, requires a Charleston, W. Va., home improvement firm to cease misrepresenting or failing to make relevant disclosures regarding prices, interest rates, savings, discounts, and financing arrangements. Further, the firm must cease failing to furnish consumers, in connection with the extension of credit, those materials and disclosures required by Federal Reserve System regulations. The company is additionally required to establish a $35,000 escrow account for making restitution to entitled customers, and to effectuate such restitution in a manner prescribed in the order.

DATES: Complaint issued July 15, 1975. Decision issued August 8, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Regional Director, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Building, 1240 East Ninth

[1] Copies of the complaint, decision, and order filed with the original document.

Street, Cleveland, Ohio 44199, 216-522-4207.

SUPPLEMENTARY INFORMATION: On Tuesday, May 30, 1978, there was published in the FEDERAL REGISTER, 43 FR 22992, a proposed consent agreement with analysis in the matter of Capital Builders, Inc., a corporation, and Jerome Finn, and Richard Landman, individually and as officers of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings, and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; § 13.15-20 Business methods and policies; § 13.15-70 Financing activities; § 13.73 Formal regulatory and statutory requirements; § 13.73-92 Truth in Lending Act; § 13.105 Individual's special selection or situation; § 13.155 Prices; § 13.155-5 Additional charges unmentioned; § 13.155-33 Demonstration reductions; § 13.155-35 Discount savings; § 13.155-93 Special or test offers; § 13.155-95 Terms and conditions; § 13.155(a) Truth in Lending Act; § 13.155-100 Usual as reduced, special, etc.; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-55 Refunds, rebates and/or credits. Subpart—Failing to Maintain Records: § 13.1051 Failing to maintain records; § 13.1051-20 Adequate. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business methods, policies, and practices; § 13.1417 Financing activities.—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1623-95 Truth in Lending Act; § 13.1663 Individual's special selection or situation; § 13.1740 Scientific or other relevant facts.—Prices: § 13.1778 Additional costs unmentioned; § 13.1800 Demonstration reductions; § 13.1823 Terms and conditions; § 13.1823-20 Truth in Lending Act. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory or statutory requirements; § 13.1852-75 Truth in Lending Act; § 13.1882 Prices; § 13.1882-10 Additional prices unmentioned; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; § 13.1905-60 Truth in Lending Act. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1985 Individual's special selection or situation; § 13.2063 Scientific or other relevant facts; § 13.2080 Terms and conditions.

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

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-24606 Filed 8-30-78; 8:45 am]

[6360-01]

Title 18—Conservation of Power and Water Resources

CHAPTER III—DELAWARE RIVER BASIN COMMISSION

PART 401—RULES OF PRACTICE AND PROCEDURE

Amendments to Rules of Practice and Procedure

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: Section 3.8 of the Delaware River Basin Compact (75 Stat. 688) requires that proposed projects having a substantial effect on the water resources of the basin shall be submitted to the Delaware River Basin Commission for review and approval. The Commission approves a project whenever it finds that it would not impair or conflict with the comprehensive plan for the basin, and may modify or disapprove a project whenever it finds that a conflict with the plan would occur if the project were built. Definition of those categories of project proposals that must be submitted to the Commission for review, and the general procedures associated therewith, appear in 18 CFR 401, Subpart C. One such category of reviewable project is "draining, filling, or otherwise altering marshes or wetlands where the area affected is in excess of 25 acres."

On June 28, 1978, the Commission adopted a wetlands protection policy as part of its comprehensive plan. The new policy will be one of the criteria used by the Commission in judging the impact of a proposed project that might adversely affect wetlands. On June 28, 1978, the Commission also adopted two technical amendments to its rules of practice and procedure to bring them into conformance with the new wetlands protection policy. Prior to taking these actions the Commission held a public hearing on May 24, 1978, in Trenton, N.J. Notice of this hearing appeared at 43 FR 19431. No significant changes were made in the amendments to the rules of practice and procedure as a result of the public hearing.

EFFECTIVE DATE: June 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Herbert A. Howlett, Chief Engineer, Delaware River Basin Commission, P.O. Box 7360, West Trenton, N.J. 08628, 609-883-9500.

SUPPLEMENTARY INFORMATION: The text of the wetlands protection policy adopted by the Commission on June 28, 1978, is relevant background to the technical amendments to the rules of practice and procedure which is the subject of this notice. A copy of the text may be obtained from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, N.J. 08628. The policy is included in an index entitled "Water Code—Delaware River Basin," dated July 1978, which may be examined at State libraries in New Jersey, New York, Delaware, and Pennsylvania.

The Commission's rules of practice and procedure are amended as follows:

§ 401.35 [Amended]

(1) Section 401.35(a) is amended by deleting the word "Commission" and substituting therefor the words "Executive Director," so that the section reads:

(a) Except as the Executive Director may specially direct by notice to the project owner or sponsor, or as a State or Federal agency may refer under paragraph (c) of this section, a project in any of the following classifications will be deemed not to have a substantial effect on the water resources of the basin and is not required to be submitted under § 3.8 of the compact:

* * * * *

(2) Section 401.35(a)(15) is amended by the addition of a qualifying provision following the initial reference to "25 acres," so that the section reads:

(a) * * *

(15) Draining, filling, or otherwise altering marshes or wetlands when the area affected is less than 25 acres: *Provided, however,* That areas less than 25 acres shall be subject to Commission review and action (i) where neither a State nor a Federal level review and permit system is in effect, and the Executive Director determines that a project is of major regional or interstate significance requiring action by the Commission, or (ii) when a Commissioner or the Executive Director determines that the final action of a State or Federal permitting agency may not adequately reflect the Com-

mission's policy as to wetlands of the basin. In the case of a project affecting less than 25 acres for which there has been issued a State or Federal permit, a determination to undertake review and action by the Commission shall be made no later than 30 days following notification of the Commission of such permit action. The Executive Director, with the approval of the chairman, may at any time within the 30-day period inform any permitholder, signatory party, or other interested party that the Commission will decline to undertake review and action concerning any such project.

* * * * *

W. BRINTON WHITALL,
Secretary.

[No. 78-10]

A resolution to amend the comprehensive plan and rules of practice and procedure by the addition of new policy relating to protection of wetlands.

Whereas, the compact provides that the Commission's comprehensive plan for the basin will provide for the propagation of fish and game, for the promotion of soil conservation, and for the protection and aid to fisheries dependent upon water resources, among other objectives; and

Whereas, large areas of wetlands of the basin have been lost or despoiled by uncontrolled draining, dredging, or filling; and

Whereas, the loss or despoliation of wetlands will impair their use as habitat for plants, waterfowl, and animals of significant economic and ecological value; and

Whereas, wetlands possess recreational, educational, scientific, and esthetic values, and draining, dredging, or filling of wetlands could adversely affect these values; and

Whereas, the vegetation supported by wetlands assists in converting residuals from treated waste discharges to forms of nutrients usable in the food chain; and

Whereas, the continued loss or modification of such lands will adversely affect their value as sources of nutrients for fish and shellfish which play an important role in the economy of the basin in the areas of commercial and sport fishing; and

Whereas, wetlands play an important ecologic rôle for floodwater and runoff storage and the loss of wetlands could increase the severity of flood-related damages; and

Whereas, the further loss or despoliation of wetlands will impair their natural ability to absorb sediment, and will result in the increased silting of channels and harbors to the detriment of navigation; and

Whereas, State and Federal agencies have plans and programs which affect or regulate wetlands to different extents; and

Whereas, it is in the interest of the Delaware River Basin and consistent with the Commission's regional responsibilities under the compact to encourage and insure a comprehensive approach to the protection and preservation of wetlands; and

Whereas, proposed policy to insure a comprehensive approach to protection of wetlands has been considered by the Commission and was the subject of a public hearing held on May 24, 1978; now therefore

Be it resolved by the Delaware River Basin Commission:

I. The comprehensive plan is amended by the addition of a new section, wetlands protection, to read as follows:

WETLANDS PROTECTION

1. DEFINITION

Wetlands shall mean those areas which are inundated by surface or ground water with a frequency sufficient to support a prevalence of vegetative or aquatic life that requires saturated soil conditions for growth and reproduction, or are delineated as wetlands by a signatory State.

2. POLICY OF PROTECTION AND PRESERVATION

It shall be the policy of the Commission to support the preservation and protection of wetlands by (1) minimizing adverse alterations in the quantity and quality of the underlying soils and natural flow of waters that nourish wetlands; (2) safeguarding against adverse draining, dredging, or filling practices, liquid or solid waste management practices, and siltation; (3) preventing the excessive addition of pesticides, salts, or toxic materials arising from nonpoint source wastes; and (4) preventing destructive construction activities generally.

3. SAFEGUARD PUBLIC INTEREST

Review and consideration of any project affecting wetlands conducted pursuant to this policy shall include balanced assessment of the environmental and economic impact of the project. Encroachment on wetlands shall not be permitted unless such assessment shall establish that no feasible alternative exists and that overriding public interest has been demonstrated. Project encroachments having no alternatives and demonstrating an overriding public interest shall be planned, constructed, and operated in a manner to safeguard the present and future public interest in the environmental values derived from such areas.

4. COMMISSION JURISDICTION

The Commission shall exercise its jurisdiction over wetlands in a manner which will assist, supplement, and overview actions of agencies signatory to the Delaware River Basin compact and in a manner that will avoid unnecessary regulatory activity.

To avoid duplication or conflicting regulatory activity the Commission will undertake review and action on projects affecting 25 or more acres of wetlands as provided for in section 2-3.5 of the rules of practice and procedure. Projects affecting less than 25 acres of wetlands will be subject to Commission review and action only under the following circumstances: (1) Where neither a State nor a Federal level review and permit system is in effect, and the Executive Director determines that a project is of major regional or interstate significance requiring action by the Commission, or (2) when a Commissioner or the Executive Director determines that the final action of a State or Federal permitting agency may not adequately reflect the Commission's policy as to wetlands of the basin.

In the case of a project affecting less than 25 acres for which there has been issued a State or Federal permit, a determination to undertake review and action by the Commission shall be made no later than 30 days following notification of the Commission of such permit action. The Executive Director, with the approval of the Chairman, may at any time within the 30-day period inform any permitholder, signatory party, or other interested party that the Commission will decline to undertake review and action concerning any such project.

II. The rules of practice and procedure are amended in the following respects:

(1) Section 2.3.5(a) is changed to read:

(a) Except as the [Commission] *Executive Director* may specially direct by notice to the project owner or sponsor, or as a State or Federal agency may refer under paragraph (c) of this section, a project in any of the following classifications will be deemed not to have a substantial effect on the water resources of the basin and is not required to be submitted under section 3.8 of the compact:

(2) Section 2-3.5(a)(15) is changed to read:

(15) Draining, filling, or otherwise altering marshes or wetlands when the area affected is less than 25 acres: *Provided, however, That areas less than 25 acres shall be subject to Commission review and action (1) where neither a State nor a Federal level review and permit system is in effect, and the Executive Director determines that a project is of major regional or interstate significance requiring action by the Commission, or (2) when a Commissioner or the Executive Director determines that the final action of a State or Federal permitting agency may not adequately reflect the Commission's policy as to wetlands of the basin. In the case of a project affecting less than 25 acres for which there has been issued a State or Federal permit, a determination to undertake review and action by the Commission shall be made no later than 30 days following notification of the Commission of such permit action. The Executive Director, with the approval of the Chairman, may at any time within the 30-day period inform any permitholder, signatory party or other interested party that the Commission will decline to undertake review and action concerning any such project.*

Adopted: June 28, 1978.

SHERMAN W. TRIBBITT,
Chairman.
W. BRINTON WHITALL,
Secretary.

[FR Doc. 78-24469 Filed 8-30-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-302]

NOTICE THAT FINAL COURT DECISIONS ADVERSE TO THE CUSTOMS SERVICE WILL NOT BE GIVEN GENERAL EFFECT UNTIL A NOTICE OF ACQUIESCENCE IS PUBLISHED

AUGUST 24, 1978.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The Customs regulations provide that a decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals adverse to the Government generally may be limited to the particular merchandise, circumstances, or entries which were the subject of the decision. This notice implements the regulations by establishing a uniform procedure to inform Customs officers and the public that the general application of a final decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals adverse to the Government will be delayed until a notice of acquiescence or a limiting ruling is published in the Customs Bulletin.

A final court decision which is adverse to the Government will not be applied (1) to any transaction not the subject of the litigation, (2) to any person not a party to the litigation, or (3) to any merchandise or circumstance not specifically the subject of the litigation, until the Customs Service publishes a notice of its acquiescence in that decision in the Customs bulletin. If an adverse decision may affect the liquidation of any entry or the action to be taken on any protest, the liquidation or action will be suspended until a notice of acquiescence or, in the alternative, a limiting ruling, is published.

DATE: The policy set forth in this notice shall be effective with respect to all transactions or protests pending on, or arising on or after, the date of its publication in the Customs Bulletin.

FOR FURTHER INFORMATION CONTACT:

James C. Hill, Classification and Value Division, Office of Regu- lations and Rulings, Headquarters, U. S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5786.

SUPPLEMENTARY INFORMATION:

BACKGROUND

DISCUSSION OF APPLICABLE CUSTOMS REGULATIONS

Section 176.31, Customs regulations (19 CFR 176.31), provides that entries which are the subject of litigation which has been concluded with a decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals shall be reliquidated in accordance with that decision. However, § 152.16(e), Customs regulations (19 CFR 152.16(e)), provides that the Customs Service may limit the application of the principles of any decision of the Customs Court or the Court of Customs and Patent Appeals which is adverse to the Government, except a decision upholding a petition of an American manufacturer, producer, or wholesaler under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), to the specific entries of merchandise which were the subject of the decision. Section 152.16(e) of the regulations also states that the Customs Service may provide for the application of the decision, in a manner which it considers appropriate, to unliquidated entries and protested entries that have not been denied, in whole or in part, which involve the same issue as that decided by the court. Section 177.10(d), Customs regulations (19 CFR 177.10(d)), similarly provides that the Customs Service may limit the application of a decision of the Customs Court or the Court of Customs and Patent Appeals which is adverse to the Government to the particular merchandise, circumstances, or entries which were the subject of the litigation by publication of a limiting ruling.

NEED FOR UNIFORM PROCEDURE

If (1) the Customs Service does not accept the reasons upon which an adverse decision is based, (2) the Government does not file an appeal, and (3) a limiting ruling is published after a decision not to appeal is made or the time for filing an appeal has expired, transactions pending on, or occurring on or after, the date of the court decision, but before the date of publication of a limiting ruling, may be treated differently from transactions occurring after the limiting ruling is published. For this reason, there may be doubt on the part of the public as to the effect of a court decision adverse to the Government.

NOTICE OF ACQUIESCENCE OR LIMITING RULING

The Assistant Commissioner, Regulations and Rulings, to whom the authority has been delegated by Customs Delegation Order No. 1 (Revision 1), as amended by Treasury Decision 78-111, will announce in the Customs bulletin the Customs Service decision to acquiesce in, or to limit, any final adverse decision of the Customs Court or the Court of Customs and Patent Appeals, except abstracted decisions and decisions which involve only the rules and procedures of the court. A notice of acquiescence or limiting ruling will be published at the earliest practicable date, generally within 180 days, after each adverse court decision.

Acquiescence in an adverse decision means that the Customs Service will accept the conclusions reached by the court for general application to transactions not specifically the subject of the litigation, but does not necessarily mean acceptance or approval of all of the reasons assigned by the court for its conclusions. When the Customs Service does not acquiesce in an adverse decision, or acquiesces only in part of a decision, a limiting ruling clarifying the position of the Customs Service will be published.

LIQUIDATION OF ENTRIES OR ACTION ON PROTEST SUSPENDED

Liquidation of entries or action on protests which are pending when an adverse court decision is issued and which may be affected by the decision will be suspended pending publication of a notice of acquiescence or a limiting ruling. When a notice of acquiescence is published before an adverse court decision becomes final, however, the conclusions reached in the decision may be applied immediately to transactions which were not the subject of the litigation.

G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc. 78-24673 Filed 8-30-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 710—RIGHT-OF-WAY—GENERAL

State Highway Department Responsibilities

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) deletes the requirement that State highway agencies submit annual real property acquisition reports.

EFFECTIVE DATE: September 1, 1978.

FUR FURTHER INFORMATION CONTACT:

Gerald L. Kennedy, Office of Right-of-Way, 202-426-0142; or Marguerite L. Price, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Because OMB approval has expired relative to State highway department preparation and submissions of form FHWA 1434, Title 23 of the Code of Federal Regulations, Chapter I, Subchapter H, Part 710, Subpart B is hereby amended by deleting from the table of sections the heading "§ 710.206 Real Property Acquisition

Report" and by deleting the corresponding section within the subpart.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

(23 U.S.C. 315; 49 CFR 1.48(b).)

Issued on: July 11, 1978.

L. P. LAMM,
Executive Director.

[FR Doc. 78-24465 Filed 8-30-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7562]

INCOME, ESTATE AND GIFT TAXES

Certain Armed Forces Survivor Annuities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to certain armed forces survivor annuities. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974 ("ERISA"). The regulations conform existing regulations with ERISA and affect all personnel contributing to armed forces survivor annuities.

DATES: The regulations are effective for taxable years ending, and apply to individuals dying, after September 20, 1972.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C., 20224, Attention: CC:EE-6-78 (202-566-3651) (not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 18, 1978, the Internal Revenue Service published in the FEDERAL REGISTER proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 122 of the Internal Revenue Code of 1954, to the Estate Tax Regulations (26 CFR Part 20) under section 2039 of the Code, and to the Gift Tax Regulations (26 CFR Part 25) under section 2517. These amendments were proposed to conform the regulations to section 2008 of the Employee Retirement Income Security Act of 1974 (88 Stat. 994). A public hearing was not held. Also, there were no written comments on the proposals. Therefore, the proposals are adopted without change as final regulations.

DRAFTING INFORMATION

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

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 122, the Estate Tax Regulations (26 CFR Part 20) under section 2039, and the Gift Tax Regulations (26 CFR Part 25) under section 2517, as published in the FEDERAL REGISTER (43 FR 21465) on May 18, 1978, are adopted without change.

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: August 24, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

SUBCHAPTER A—INCOME TAX

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

§ 1.122 [Deleted]

PARAGRAPH 1. Section 1.122 is deleted.

PAR. 2. Paragraph (a) of § 1.122-1 is amended by inserting "subchapter I of" immediately preceding "chapter 73 of title 10 of the United States Code".

PAR. 3. Paragraph (b)(1) of § 1.122-1 is amended to read as follows:

§ 1.122-1 Applicable rules relating to certain reduced uniformed services retirement pay.

* * * * *

(b) *Rule applicable after December 31, 1965.*—(1) In a case of a member or former member of the uniformed services of the United States (as defined in 37 U.S.C. 101(3)), gross income shall not include the amount of any reduction made in his or her retired or retainer pay after December 31, 1965, by reason of—

(i) An election made under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431), or

(ii) The provisions of subchapter II of chapter 73 of title 10 of the United States Code (also referred to in this section as the Survivor Benefit Plan (10 U.S.C. 1447)).

* * * * *

PAR. 4. Paragraph (b)(2)(iii) of § 1.122-1 is amended by inserting in subdivision (*a*) "subchapter I of" immediately preceding "chapter 73 of title 10 of the United States Code"; and by substituting in subdivision (*b*) "sections 1438 or 1452(d)" for "section 1438".

PAR. 5. Paragraph (c) of section 1.122-1 is amended by inserting in subparagraphs (1), (3), and (4) "or the Survivor Benefit Plan (10 U.S.C. 1447)" immediately after "Retired Serviceman's Family Protection Plan (10 U.S.C. 1431)" and by inserting in subparagraph (4) "or Survivor Benefit Plan" after "whether or not reduced under the Retired Serviceman's Family Protection Plan".

PAR. 6. Paragraph (d) of § 1.122-1 is amended by deleting "(as defined in § 1.79-2(b)(3))" in Example (5) and by revising the material immediately preceding "Example (1)" to read as follows:

§ 1.122-1 Applicable rules relating to certain reduced uniformed services retirement pay.

* * * * *

(d) *Examples with respect to the Retired Serviceman's Family Protection Plan.* The rules discussed in this section relating to the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431) may be illustrated by the following examples:

* * * * *

PAR. 7. Section 1.122-1 is amended by adding at the end thereof a new paragraph (e) to read as follows:

§ 1.122-1 Applicable rules relating to certain reduced uniformed services retirement pay.

* * * * *

(e) *Principles applicable to the Survivor Benefit Plan.* The principles illustrated by the examples set forth in paragraph (d) of this section apply to an annuity under the Survivor Benefit Plan (10 U.S.C. 1447).

SUBCHAPTER B—ESTATE AND GIFT TAXES

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

§ 20.2039 [Deleted]

PAR. 8. Section 20.2039 is deleted.

§ 20.2039-2 [Amended]

PAR. 9. Paragraph (b)(4) of § 20.2039-2 is amended by deleting ", also referred to as the Retired Serviceman's Family Protection Plan".

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

§ 25.2517 [Deleted]

PAR. 10. Section 25.2517 is deleted.

§ 25.2517-1 [Amended]

PAR. 11. Paragraph (b)(1)(iv) of section 25.2517-1 is amended by deleting ", also referred to as the Retired Serviceman's Family Protection Plan".

[FR Doc. 78-24621 Filed 8-30-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Civil Division Directive 110-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart Y—Authority to Compromise and Close Civil Claims and Responsibility for Judgments, Fines, Penalties, and Forfeitures

APPENDIX TO SUBPART Y—REDELEGATIONS OF AUTHORITY TO BRANCH DIRECTORS, HEADS OF OFFICES AND U.S. ATTORNEYS IN CIVIL DIVISION CASES

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Civil Division Directive supersedes Civil Division Directives No. 18-71 and 31-72, and Civil Division Memorandum No. 374, regarding redelegation of the Assistant Attorney General's authority to section chiefs, unit chiefs, heads of offices, and U.S. attorneys in Civil Division cases. This directive increases settlement authority of branch directors, heads of offices, and U.S. attorneys, and consolidates the previous directives and memorandum into a single directive.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William G. Schaffer, Deputy Assistant Attorney General, Civil Division, Department of Justice, Washington, D.C. 20530, 202-739-3303.

By virtue of the authority vested in me by part O of title 28 of the Code of Federal Regulations, particularly §§ 0.45, 0.46, 0.160, 0.162, 0.164, 0.166, and 0.168, it is hereby ordered that Civil Division Directives No. 18-71 and 31-72, and Civil Division Memorandum No. 374, are superseded by the following:

CIVIL DIVISION DIRECTIVE NO. 110-78

SECTION 1. *Delegations of authority to branch directors, unit chiefs, and heads of field offices.* Authority delegated to the Assistant Attorey General in charge of the Civil Division to accept or reject offers in compromise, or to close claims other than by compromise or entry of judgment, is hereby redelegated, in part, to the several branch directors, unit chiefs, and to the attorneys in charge of field offices of the Civil Division as follows (subject to the exceptions set forth in section 2 of this directive): Branch directors are authorized to compromise, reject offers in compromise, or close any claim, in all cases against the Government, in which the amount to be paid by the Government pursuant to the offer does not exceed $100,000, and in all cases involving claims asserted by the Government in which the differences between the gross amount of the original claim and the proposed settlement does not exceed $100,000. Unit chiefs and attorneys in charge of field offices have similar authority, except that the comparable figure is $60,000. In addition, pursuant to 28 CFR 172, the Directors of the Torts Branch are authorized to adjust, determine compromise, and settle administrative claims involving the Department of Justice under the Federal Tort Claims Act, in which the amount to be paid by the Government does not exceed $100,000.

SEC. 2. *Delegations of authority to U.S. attorneys.* The Assistant Attorney General has the ultimate responsibility for the proper handling and administration of all civil litigation (excepting certain areas of specialized civil litigation assigned to other divisions of this Department—see part O of title 28 of the Code of Federal Regulations) involving the United States, and certain of its officers and employees. Each U.S. attorney shall be immediately responsible for the proper handling of each claim involving an exercise of any authority delegated to him by this directive. The Assistant Attorney General will provide U.S. attorneys with such advice or assistance as may be deemed necessary. The Assistant Attorney General may, at any time, withdraw any authority delegated by this memorandum as it relates to any particular case, or part thereof, or to any particular category of cases.

(a) *Cases routinely referred.* U.S. attorneys are authorized to take all necessary steps, with respect to money claims by or against the Government under the jurisdiction and authority of the Assistant Attorney General (excluding those covered by section 3 of this directive), to protect the interests of the United States, including the institution, conduct, compromise, and termination of appropriate legal proceedings without prior approval of the Assistant Attorney General or his representative, where the amount claimed or the current lien interest of the Government does not exceed $60,000 (including forfeitures, if any, but excluding double damages, attorney fees, interest, and costs), and for which the Civil Division has not retained primary litigation responsibility.

(b) *Direct referral by agencies.* The following civil actions under the jurisdiction and authority of the Assistant Attorney General will be referred by the concerned agency directly to U.S. attorneys for handling and U.S. attorneys are authorized to take all necessary steps to protect the interest of the United States, without prior approval of the Assistant Attorney General or his representative, regardless of the amount claimed, if any, by or against the Government. When constitutional questions or other significant issues arise in the course of such litigation, however, the Civil Division should be consulted.

(1) Suits by social security beneficiaries under title II of the Social Security Act, 42 U.S.C. 402, et seq.

(2) Social security disability suits under 42 U.S.C. 423, et seq.

(3) Black lung beneficiary suits under title IV of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 921, et seq.

(4) Suits by medicare beneficiaries under 42 U.S.C. 1395ff.

(5) Single family dwelling house foreclosures arising out of loans made or insured by the Department of Housing and Urban Development.

(6) Garnishment actions authorized by 42 U.S.C. 659 for child support or alimony payments.

(7) Suits to enjoin violations of, and to collect penalties under, the Agricultural Adjustment Act of 1938, 7 U.S.C. 1376, the Packers and Stockyards Act, 7 U.S.C. 203, 207(g), 216, and 222, and the Perishable Agricultural Commodities Act, 7 U.S.C. 499c(a), 499h(d).

(8) Judicial review of actions of the Secretary of Agriculture under the food stamp program, pursuant to the provisions of 7 U.S.C. 2022 involving retail food stores.

(9) Cases referred by the Department of Labor for the collection of

penalties or for injunctive action under the Fair Labor Standards Act and the Occupational Safety and Health Act.

(10) Actions referred by the Interstate Commerce Commission to enforce orders of the Interstate Commerce Commission or to enjoin or suspend such orders pursuant to 28 U.S.C. 1336.

(c) *Cases not covered.* Irrespective of the amount in controversy, the following matters will normally not be referred to U.S. attorneys for handling but will be retained and handled by the appropriate branch within the Civil Division.

(1) Civil actions in the court of claims.

(2) Cases within the jurisdiction of the commercial branch involving patent, trademark, copyright, etc. (see USAM 4-1.225).

(3) Cases before the U.S. Customs Court and Court of Customs and Patent Appeals.

(4) Any case involving bribery, conflict of interest, breach of fiduciary duty, breach of employment contract, or exploitation of public office.

(5) Any case involving vessel-caused pollution in navigable waters.

(d) *Further delegations.* Notwithstanding any of the provisions of this directive, branch directors of the Civil Division may delegate to U.S. attorneys any claims or suits, including those involving amounts greater than as set forth above, and up to the maximum limit of their authority, where the circumstances warrant such delegation. Upon recommendations of branch directors, the Assistant Attorney General may delegate to U.S. attorneys any claims or suits including those involving amounts greater than as set forth above, and up to the maximum limit of the Assistant Attorney General's authority, where the circumstances warrant such delegations.

SEC. 3. *Exceptions.* (a) Notwithstanding the above redelegations, the Assistant Attorney General's approval must be obtained when (1) an agency whose views must be solicited objects in writing to the proposed closing or dismissal of a case or to the acceptance or rejection of a proposed compromise; (2) the responsible Justice official is of the opinion that because of a question of law or policy presented, or for any other reason, the proposal should receive the personal attention of the Assistant Attorney General; (3) the compromise or closing will, as a practical matter, control or adversely influence the disposition of related claims whose aggregate value exceeds the monetary limit imposed upon the redelegated authority, or (4) the matter is on appeal.

(b) The views of a Federal agency must be solicited with respect to any proposal to compromise or close a claim, whenever (1) the agency is a party to the claim, (2) the agency has requested that it be consulted with respect to any proposed compromise or closing, or (3) the compromise or closing would affect any policy of that agency.

SEC. 4. *Adverse decisions.* All final judicial decisions adverse to the Government involving any delegated claims must be reported promptly to the Assistant Attorney General.

Dated: August 24, 1978.

BARBARA ALLEN BABCOCK,
Assistant Attorney General,
Civil Division.

Approved:

MICHAEL J. EGAN,
Associate
Attorney General.

[FR Doc. 78-24616 Filed 8-30-78; 8:45 am]

[4410-01]

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: U.S. Parole Commission.

ACTION: Final rule.

SUMMARY: This rule change provides that appeals filed by prisoners whose cases were decided under the Commission's original jurisdiction procedures must be received by the Commission at least 30 days in advance of the Commission meeting at which the appeal is to be considered. The purpose of this rule is to permit the Commission to give adequate consideration to prisoner appeals and to permit orderly processing of the appellate docket. The rule also contains, for the same purposes, an advisory requirement that all documents in support of an appeal be submitted at least 2 weeks in advance of the Commission's meeting.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537, phone 202-724-3092.

SUPPLEMENTARY INFORMATION: The amended portion of the rule set forth below has been in effect as an interim rule since February 7, 1978, and will continue to be in effect until October 1, 1978, the date the final rule becomes effective. See 42 FR 4977 (February 7, 1978). No public comment was received. The final rule printed below consolidates the text of the interim rule with those portions of the rule (28 CFR § 2.27) that have remained unchanged.

Accordingly, pursuant to 18 U.S.C. 4203(a)(7) and 4204(a)(6), Title 28, Code of Federal Regulations, § 2.27 is amended by deletion of the entire text of that section and the substitution of the following text:

§ 2.27 Appeal of original jurisdiction cases.

(a) Cases decided under the procedure specified in § 2.17 may be appealed within 30 days of the date of the decision on a form provided for this purpose. Appeals will be reviewed at the next regularly scheduled meeting of the Commission provided they are received 30 days in advance of such meeting. Appeals received in the office of the Commission's National Appeals Board in Washington, D.C., less than 30 days in advance of a regularly scheduled meeting will be reviewed at the next regularly scheduled meeting thereafter. A quorum of five Commissioners shall be required and all decisions shall be by majority vote. This appellate decision shall be final.

(b) Attorneys, relatives, and other interested parties who wish to submit written information in support of a prisoner's appeal should send such information to the National Appeals Board Analyst, U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537. Supporting material should be submitted at least 2 weeks in advance of the meeting at which the appeal will be heard, in order to permit consideration thereof by the Commission.

(c) Attorneys, relatives, or other interested parties who wish to speak for or against parole at such consideration must submit a written request to the Chairman of the Commission stating their relationship to the prisoner and the general nature of the material they wish to present. The Chairman shall determine if the requested appearances will be permitted.

(d) If no appeal is filed within 30 days of the entry of the decision under § 2.17 that decision shall stand as the final decision of the Commission.

Dated: August 25, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-24599 Filed 8-30-78; 8:45 am]

[4410-01]

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: U.S. Parole Commission.

ACTION: Final rule.

SUMMARY: This rule provides that, when the Commission is making a parole decision in a case in which the prisoner is subject to an immigration detainer, the possibility of deportation should not enter into the Commission's consideration. Thus, while a parole grant in such a case must recognize the necessity of first delivering the prisoner to the custody of the detaining authorities, it must also reflect a decision that the prisoner is suitable for release to supervision if not deported. This change avoids the procedural difficulties inherent in paroling prisoners for deportation only, when release to the community is not intended, and avoids the necessity for involving the Commission in a decisional area not within its statutory competence (deportation).

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537, phone 202-724-3092.

SUPPLEMENTARY INFORMATION: No public comment was received concerning the proposal published at 43 FR 22747 (Friday, May 26, 1978). Accordingly, pursuant to 18 U.S.C. 4203(a)(7) and 4204(a)(6), Title 28, Code of Federal Regulations, § 2.32 is amended to read as follows:

§ 2.32 Parole to local or immigration detainers.

(a) When a State or local detainer is outstanding against a prisoner whom the Commission wishes to parole, the Commission may order either of the following:

(1) "Parole to the actual physical custody of the detaining authorities only." In this event, release is not to be effected except to the detainer. When such a detainer is withdrawn, the prisoner is not to be released unless and until the Commission makes a new order of parole.

(2) "Parole to the actual physical custody of the detaining authorities or an approved plan." In this event, release is to be effected even though the detainer might be withdrawn, providing there is an acceptable plan for community supervision.

(b) When the Commission wishes to parole a prisoner subject to a detainer filed by Federal immigration officials, the Commission shall order the following: "Parole to the actual physical custody of the immigration authorities or an approved plan." In this event, release is to be effected regardless of whether or not immigration officials take the prisoner into custody, providing there is an acceptable plan for community supervision.

(c) As used in this section "parole to a detainer" means release to the "physical custody" of the authorities who have lodged the detainer. Temporary detention in a jail in the county where the institution of confinement is located does not constitute release on parole to such detainer. If the authorities who lodged the detainer do not take the prisoner into custody for any reason, he shall be returned to the institution to await further order of the Commission.

Dated: August 25, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-24603 Filed 8-30-78; 8:45 am]

[4410-01]

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: U.S. Parole Commission.

ACTION: Final rule.

SUMMARY: This rule change clarifies the Commission's policy not to consider forfeiture of statutory "good time" as automatically precluding the release of a prisoner on parole. Existing provisions, now deleted, imply that release will not be granted as long as forfeited statutory good time remains unrestored by prison officials. Instead, the Commission will consider the facts underlying each case to determine the severity of the institutional misconduct and will base its parole decision on that independent assessment.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537, phone 202-724-3092.

SUPPLEMENTARY INFORMATION: The proposal published at 43 FR 22747 (May 26, 1978) received one comment from a member of the public. Alvin J. Bronstein of the national prison project stated his support of the proposal, asserting that prison staff may exercise an undue influence upon the Commission's decisionmaking through their use of the disciplinary powers available to them. It is important to point out, however, that the existing rules have been flexibly interpreted by the Commission in the past to permit the Commission to grant parole to a prisoner with forfeited good time if its own judgment as to the seriousness of the misconduct justified such action. Thus, while Mr. Bronstein accurately points out a potential problem in the existing rule, the present amendment is merely a clarification rather than a substantive change of policy. By the same token, the amendment does not alter the force of the congressional command that the Commission parole only those prisoners who have substantially observed the rules of the institution (18 U.S.C. § 4206), nor does it mean that restoration of forfeited good time requires a finding of substantial compliance with such rules. The Commission will also continue to rely upon the factual findings resulting from properly conducted disciplinary hearings. It is the dispositional decision resulting from a finding of misconduct (i.e. the decision to defer parole release and the length of any deferral) that is the sole concern of the present amendment.

Accordingly, pursuant to 18 U.S.C. 4203(a)(7) and 4204(a)(6), Title 28, Code of Federal Regulations, §§ 2.6 and 2.53 are amended to read as follows:

§ 2.6 Withheld and forfeited good time.

While neither a forfeiture of good time nor a withholding of good time shall bar a prisoner from receiving a parole hearing, section 4206 of title 18 of the United States Code permits the Commission to parole only those prisoners who have substantially observed the rules of the institution.

§ 2.53 Mandatory parole.

(a) A prisoner (including a prisoner sentenced under the Narcotic Addict Rehabilitation Act, Federal Juvenile Delinquency Act, or the provisions of 5010(c) of the Youth Corrections Act) serving a term or terms of 5 years or longer shall be released on parole after completion of two-thirds of each consecutive term or terms or after completion of 30 years of each term or terms of more than 45 years (including life terms), whichever comes earlier, unless pursuant to a hearing under this section, the Commission deter-

mines that there is a reasonable probability that the prisoner will commit any Federal, State, or local crime or that the prisoner has frequently or seriously violated the rules of the institution in which he is confined. If parole is denied pursuant to this section, such prisoner shall serve until the expiration of his sentence less good time.

(b) When feasible, at least 60 days prior to the scheduled two-thirds date, a review of the record shall be conducted by an examiner panel. If a mandatory parole is ordered following this review, no hearing shall be conducted.

(c) A prisoner released on mandatory parole pursuant to this section shall remain under supervision until the expiration of the full term of his sentence unless the Commission terminates parole supervision pursuant to section 2.43 prior to the full term date of the sentence.

(d) A prisoner whose parole has been revoked and whose parole violator term is 5 years or more shall be eligible for mandatory parole under the provisions of this section upon completion of two-thirds of the violator term and shall be considered for mandatory parole under the same terms as any other eligible prisoner.

Dated: August 25, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-24604 Filed 8-30-78; 8:45 am]

[4410-01]

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: U.S. Parole Commission.

ACTION: Final rule.

SUMMARY: This rule permits the Commission to release information concerning parolees under its supervision if the release of such information is deemed to be reasonably necessary to give notice to particular members of the public that they may be exposed to harm through contact with the parolee. The rule recognizes that there may sometimes be a compelling public interest that prospective employers and other persons who come into contact with the parolee be apprised of the parolee's background and potential for harm so that they may govern their dealings with the parolee accordingly.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537, phone 202-724-3092.

SUPPLEMENTARY INFORMATION: Paragraph (a) of this rule reflects the previous publication of a new routine use in the JUSTICE/PRC 003, Inmate and Supervision Files system. See 43 FR 35403 (August 9, 1978). The rule published below essentially repeats the text of that routine use in the Commission's operational rules for the purpose of clarification and makes a conforming expression of the Commission's policy as to disclosure of names of parolees to local police. Discretion to approve the disclosure of such information will be exercised only by a Commissioner. Such disclosures will not be made except where clearly warranted by specific circumstances, since unnecessary release of such information may be counterproductive in terms of efforts to reintegrate the parolee into the community.

Accordingly, pursuant to 18 U.S.C. 4203(a)(7) and 4204(a)(6), Title 28, Code of Federal Regulations, § 2.37 is amended to read as follows:

§ 2.37 Disclosure of information concerning parolees; statement of policy.

(a) Information concerning a parolee under the Commission's supervision may be disclosed to a person or persons who may be exposed to harm through contact with that particular parolee if such disclosure is deemed by a Commissioner to be reasonably necessary to give notice that such danger exists.

(b) Names of parolees under supervision will not be furnished to a police department of a community, except as required by law, or as authorized by the U.S. Parole Commission. All such notifications are to be regarded as confidential.

Dated: August 25, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-24605 Filed 8-30-78; 8:45 am]

[3710-08]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[Army Reg. 340-21]

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Exemptions

AGENCY: Department of the Army.

ACTION: Final rule.

SUMMARY: The Department of the Army is adopting an amended exemption rule pertaining to a system of records subject to the Privacy Act of 1974 identified as AO704.10bMEPCOM, entitled: ASVAB Institutional Test Scoring and Reporting System.

DATE: This final rule is adopted effective immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, Department of the Army, the Adjutant General Center, Washington, D.C. 20314, telephone 202-693-0973.

SUPPLEMENTARY INFORMATION: In 42 FR 27864, June 27, 1978, the Army published a proposed amendment to the identification and title of exemption rule AO704.10bUSAREC, Armed Forces Vocational Aptitude Battery (ASVAB). No comments were received. Accordingly, the amended exemption rule, as set forth below, is adopted. With this change, the rule now agrees with the system of records to which it applies, published at 43 FR 27864, June 27, 1978.

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

AUGUST 28, 1978.

§ 505.9 Exemption rules for Army systems of records.

* * * * *

EXEMPTED RECORDS SYSTEMS (SPECIFIC EXEMPTIONS)

ID-AO704.10bMEPCOM.

SYSNAME—ASVAB Institutional Test Scoring and Reporting System.

EXEMPTION—All portions of this system which fall within 5 U.S.C. 552a(k)(6) are exempt from the following provisions of title 5 U.S.C. section 552a: (d).

AUTHORITY—5 U.S.C. 552a(k)(6).

REASONS—Exemption is needed for the portion of records which pertains to individual item response on

tests, to preclude compromise of scoring keys.

[FR Doc. 78-24623 Filed 8-30-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

Subchapter D—Organization and Administration

PART 232—Postal Losses and Offenses

Conduct on Postal Property

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Two regulations containing prohibitions against specified activities on postal premises are published below; one new and one a replacement for a previous regulation. The new regulation contains prohibitions, with certain exceptions against depositing or posting handbills, signs and the like on postal premises. This has become necessary because many post offices have become cluttered with miscellaneous posters, leaflets, and signs which add to the costs of cleaning, prevent neat and effective display of postal material, interfere with the efficient transaction of postal business and may constitute a safety hazard.

The replacement regulation contains prohibitions against activities that were prohibited in the previous regulation, plus a new prohibition against electioneering on postal premises. The purpose of prohibiting electioneering on postal premises is to prevent abuses and to preclude any appearance of partisan endorsement or preference.

In addition, there are omitted from the replacement regulation certain provisions of the previous regulation which allowed the use of postal lobby space for fund raising campaigns of nonprofit organizations. The use of lobby space for such activity has been highly unsatisfactory. Most postal lobbies are layed out for the sole purpose of providing efficient service and cannot therefore accommodate nonpostal activities without disturbing postal employees in the performance of their duties and impeding the public in transacting postal business; additionally, the use of lobbies only by nonprofit philanthropic and charitable organizations for fund raising has come to be viewed as unjustifiably discriminatory by some excluded individuals and groups. Deletion of this provision of the regulations would correct the operational and legal problems.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

John Hughes-Caley, Retail Programs Branch, Retail Operations Division, Delivery Services Department, U.S. Postal Service, Washington, D.C. 20260, 202-245-5791.

SUPPLEMENTARY INFORMATION: The regulations published below reflect consideration of comments received on proposed rules published in the FEDERAL REGISTER of December 21, 1977 (42 FR 63911).

Interested parties were given until January 23, 1978, to submit comments. All comments received have been considered.

The comments, and the Postal Service's conclusions and actions, may be summarized as follows:

(1) A religious organization commented that the prohibition against soliciting alms and contributions, which was carried over from the previous regulation, offends the constitutional provisions protecting religious expression; it requested the adoption of a regulation affirmatively authorizing the solicitation of alms and contributions in connection with the exercise of religious freedoms, subject to reasonable time, place, and manner of regulation.

The Postal Service decided not to disturb the longstanding prohibition against soliciting alms and contributions on postal premises. The preservation of this regulation was deemed necessary to prevent disruptions and hindrances to the conduct of postal business. The solicitation of alms and contributions is an inherently more aggressive form of conduct, and more likely to hinder the orderly transaction of postal business, than is the expression of ideas.

Since the act of soliciting alms or contributions usually has as it objective an immediate act of charity, it has the potentiality for evoking highly personal and subjective reactions. Reflection usually is not encouraged, and the person solicited often must make a hasty decision whether to share his resources with an unfamiliar organization while under the eager gaze of the solicitor. Such confrontations, if occuring in the confines of a small post office lobby, at a post office writing desk or service window, or in a queue at a service window—places from which the individual cannot escape if he or she wishes to transact postal business—would be likely to produce hostile reactions and to cause people to avoid post offices. In the circumstances, a right to solicit alms and contributions was thought not integral to the exercise of speech and religious freedoms.

Futhermore, it was determined that the prohibition was preferable to any attempt to permit solicitation under regulation as to time, place, and manner. The Postal Service lacks the resources to enforce such regulation in the tens of thousands of post offices throughout the nation. In addition, such regulation would be, of necessity, so restrictive as to be tantamount to prohibition, and so complex as to be unadministrable.

(2) A labor union objected to the new prohibition against depositing or posting literature as being overbroad in that it would prevent unionized employees from distributing union literature and from maintaining union literature racks in nonworking areas such as employee swing rooms.

The Postal Service determined that a change from the regulation as proposed was necessary in order not to rule out union literature racks. The purpose of the regulation is to prevent the depositing or posting of literature on exterior areas and public-use interior areas. Interior employee areas, which are not for the use of the public, never were intended to be covered. Accordingly, the areas covered are more carefully defined in the adopted regulation.

It is emphasized that the new regulation does not prohibit the distribution of literature. As adopted, it prohibits, in the described areas, the particular manner of distribution encompassed by the terms "depositing" and "posting". As was indicated in the notice of proposed rulemaking, the purposes of the regulation are to regain space for the effective display of postal materials and the efficient transaction of postal business, eliminate safety hazards, reduce maintenance costs, and improve the appearence of exterior and public-use areas on postal premises. This is to be done by eliminating nongovernmental posters and signs, and deposits of pamphlets, flyers and the like, from the designated areas.

(3) Several newspaper editorials were observed, and letters received, which expressed concern over what was seen as a move by the Postal Service, in the new regulation on depositing and posting literature, to abandon its longstanding policy of providing a place for the display of public notices and announcements.

The Postal Service has no intention to discontinue providing that valuable service to local communities. The adopted regulation contains, as did the proposed rule, language insuring that the authority of postmasters to allow the placement in post offices of bulletin boards for the display of public notices and announcements, will continue as before. Thus, both of the regulations published below contain language excepting from their coverage, "posting notices on bulletin boards as

authorized in § 243.2(a) of this chapter."

The reference section authorizes both public and employee bulletin boards. Postmasters are not required to provide bulletin board space for nongovernmental public announcements; but they are encouraged by postal policy to provide such space for the display of notices of public assemblies and judicial sales, official election notices issued by State or local government, and similar announcements so long as there is sufficient space for the effective display of scheduled postal materials and other Federal Government notices.

(4) Inquiries were received on whether Federal credit unions and other tenants in Postal Service buildings might not be prevented, by the new regulation on depositing literature, from depositing or posting materials in the spaces assigned to them.

No such result was intended, and language is included in the adopted regulation ensuring that it does not occur.

(5) An inquiry was received on whether Postal Contract Stations on nonpostal property would be covered by the proposed regulations.

The Postal Service replied in the negative. Postal facilities operated under contract with the Postal Service are not covered unless they happen to be on real property under the charge and control of the Postal Service. See 39 CFR 232.6(a). Space rented by, and therefore under the charge and control of the Postal Service, is covered.

In view of the considerations discussed, the Postal Service hereby adopts, as amended, the following amendment to title 39, Code of Federal Regulations, effective October 1, 1978:

In 39 CFR 232.6, strike out the reference to "paragraph (o)" in paragraph (n) (3) and insert "paragraph (p)" in lieu thereof; redesignate paragraphs (o) and (p) as (p) and (q) respectively; revise paragraph (h) and add paragraph (o) reading as follows:

§ 232.6 Conduct on postal property.

* * * * *

(h) *Soliciting, Electioneering, Collecting Debts, Vending, and Advertising.* Soliciting alms and contributions, campaigning for election to any public office, collecting private debts, commercial soliciting and vending, and displaying or distributing commercial advertising on postal premises are prohibited. This prohibition does not apply to:

(1) Commercial activities performed under contract with the Postal Service or pursuant to the provisions of the Randolph-Sheppard Act;

(2) Posting notices on bulletin boards as authorized in § 243.2(a) of this chapter;

(3) The solicitation of Postal Service and other Federal military and civilian personnel for contributions by recognized agencies as authorized by the Manual on Fund Raising Within the the Federal Service, issued by the Chairman of the United States Civil Service Commission under Executive Order 10927 of March 13, 1961.

* * * * *

(o) *Depositing literature.* Depositing or posting handbills, flyers, pamphlets, signs, poster, placards, or other literature, except official postal and other Governmental notices and announcements, on the grounds, walks, driveways, parking and maneuvering areas, exteriors of buildings and other structures, or on the floors, walls, stairs, racks, counters, desks, writing tables, window-ledges, or furnishings in interior public areas on postal premises, is prohibited. This prohibition does not apply to:

(1) Posting notices on bulletin boards as authorized in § 243.2(a) of this chapter;

(2) Interior space assigned to tenants for their exclusive use.

* * * * *

(39 U.S.C. 401(2), 403(b)(3).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-24502 Filed 8-30-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 958-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the San Diego County Air Pollution Control District (APCD) portion of the California State implementation plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Wayne A. Blackard, 415-556-7882.

SUPPLEMENTARY INFORMATION: On January 31, 1978 (43 FR 4073) EPA published a notice of proposed rulemaking for revisions to the San Diego County APCD's rules and regulations submitted on October 13, 1977, and November 4, 1977, by the California Air Resources Board for inclusion in the California SIP.

A listing of the rules submitted and being considered in this FEDERAL REGISTER notice was included in the January 31, 1978, notice of proposed rulemaking. The rules listed were revised to correct deficiencies, add clarity, and to make needed additions. All of the rule revisions were evaluated as to their consistency with the Clean Air Act, 40 CFR Part 51 and EPA policy.

The notice of proposed rulemaking provided for a 30-day comment period. An analysis of the impact of revisions to vapor recovery regulations was received from the San Diego County APCD on December 29, 1977. On April 21, 1978, the San Diego County APCD also commented on the approvability of several of the rule revisions. Comments and analyses concerning revisions to San Diego County APCD's vapor recovery regulations will be addressed in a separate FEDERAL REGISTER notice.

The district informed EPA that there are no nitric acid plants or sulfuric acid plants in San Diego County and, therefore, there is no need to include continuous monitoring requirements for these sources under the District Rule 19.2, *Continuous Emission Monitoring Requirements.* The district also indicated that while rule 19.2 does not require emission data to be reported in the same units as the emission standard, it is required under the administrative arrangements with sources. EPA agrees that the lack of continous monitoring requirements for nitric acid plants and sulfuric acid plants is appropriate since there are no sources. While rule 19.2 is approved since it partially fulfills the requirements of 40 CFR 51.19(e), EPA does require that the SIP contain the provision that emission data be reported in the same units as the applicable standard.

The district argued that the revision to Rule 50, *Visible Emissions,* changing the definition of "single source"

strengthened the regulation. The district also indicated that the revision exempting smoke from fires set pursuant to a permit did not weaken the control requirements currently applicable under the SIP. EPA concurs with the district's comments concerning the approvability of rule 50.

The district also commented that the revision to rules 102 and 103 allowing the burning of Russian-thistle would have an insignificant effect on air quality. It was also indicated that Russian-thistle is a fire hazard and is burned under controlled conditions to prevent accidental fires.

The burning of Russian-thistle (or any other material constituting a fire hazard) is currently allowed under rules 102 and 103, provided such material cannot be hauled away for disposal, and a burning permit is obtained. The current provisions of rules 102 and 103 adequately provide for the prevention of fire hazards. Additional burning of Russian-thistle (other than that necessary for prevention of fires) is a weakening of the control requirements and therefore the revisions to rules 102 and 103 cannot be approved absent a demonstration that it will not interfere with the attainment and maintenance of the NAAQS.

Under section 110 of the Clean Air Act as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions.

It is the purpose of this notice to approve the rules listed in the notice of proposed rulemaking, and to incorporate them into the California SIP, with the exception of those rules noted below.

San Diego County APCD's vapor recovery regulations (rules 61.0 to 61.4) will not be acted on at this time, but will be acted on in a separate FEDERAL REGISTER notice.

Rule 19.2, *Continuous Emission Monitoring Requirements*, is approved since it requires continuous monitoring for specified sources and, thereby, partially fulfills the requirements of 40 CFR 51.19(e). Rule 19.2 does not, however, meet all of the requirements of 40 CFR 51.19(e) and appendix P of part 51.

Rule 62, *Sulfur Content of Fuels*, contains a clerical error in the metric equivalent of a sulfur compound limitation. No action will be taken on rule 62 until correction of this error is received from the State.

Rule 77, *Contents of Petitions*, Rule 85, *Notice of Hearing*, Rule 95, *Requirement for Hearing*, and Rule 96, *Compliance Schedules*, contain procedures by which variances from emission limits may be obtained. While EPA is approving the revisions to these rules, each variance must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

Paragraph (e) of Rule 102, *Open Fires—Western Section*, and paragraph (g) of Rule 103, *Open Fires—Eastern Section*, allow the burning of Russian-thistle. This new exemption from the open burning limitations is disapproved, since an analysis has not been submitted indicating that it would not interfere with the attainment and maintenance of the NAAQS.

Rule 113 which was previously approved as part of the SIP was deleted from the rules and regulations of the San Diego County APCD. It is the purpose of this notice to approve that deletion.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: August 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(41)(ii) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(41) * * *

(ii) San Diego County APCD.

(A) New or amended rules 2(b), 2(t), 2(u), 2(v), 2(w), 3, 19.2, 40, 42, 50, 52, 53, 54, 61.5, 64, 65, 66, 68, 71, 76, 77, 85, 95, 96, 101(f), 102(d), 102(e), 103(d), 103(g), 104, 109, and 177.

(B) Previously approved and now deleted (without replacement) rule 113.

* * * * *

2. Section 52.234 is amended by adding paragraphs (e)(1)(v) and (e)(4) as follows:

§ 52.234 Source surveillance.

* * * * *

(e) * * *

(1) * * *

(v) San Diego County APCD.

* * * * *

(4) San Diego Intrastate AQCR:

(i) San Diego County APCD.

* * * * *

3. Section 52.273 is amended by adding paragraphs (b)(5)(iii) and (b)(6) as follows:

§ 52.273 Open burning.

* * * * *

(b) * * *

(5) * * *

(iii) San Diego County APCD.

(A) Rule 103(g) submitted on October 13, 1977 is disapproved.

* * * * *

(6) San Diego Intrastate AQCR:

(i) San Diego County APCD.

(A) Rules 102(e) and 103(g) submitted on October 13, 1977, are disapproved.

* * * * *

[FR Doc. 78-24594 Filed 8-30-78; 8:45 am]

[6560-01]

[FRL 958-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Bay Area Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, take no action on changes to the Bay Area Air Pollution Control District (APCD) portion of the California State implementation plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Wayne A. Blackard, 415-556-7882.

SUPPLEMENTARY INFORMATION: On April 19, 1978 (43 FR 16516) EPA published a notice of proposed rulemaking for revisions to the Bay Area APCD's rules and regulations submitted on October 13, 1977, by the California Air Resources Board for inclusion in the California SIP.

A listing of the rules submitted was included in the April 19, 1978, notice of proposed rulemaking. The rules listed were revised to correct deficien-

cies, add clarify, or to make needed additions. All of the rule revisions were evaluated as to their consistency with the Clean Air Act, 40 CFR Part 51 and EPA policy.

The notice of proposed rulemaking provided for a 30-day comment period. No comments were received during the comment period.

Under section 110 of the Clean Air Act as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions. It is the purpose of this notice to approve the rules listed in the notice of proposed rulemaking and to incorporate them into the California SIP, with the exception of those rules noted below.

Sections 1317 to 1317.94, *Permit Fees*, of regulation 2 are not being acted on at this time, but will be acted on in a separate FEDERAL REGISTER notice.

Sections 3210.5 to 3210.11, *Continuous Emission Monitoring*, of regulation 2 are approved since they require continuous monitoring for specified sources, and thereby partially fulfill the requirements of 40 CFR 51.19(e). It is noted, however, that sections 3210.5 to 3210.11 do not meet all of the requirements of 40 CFR 51.19(e) and appendix P of part 51.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: August 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(41)(iii) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(41) * * *

(iii) Bay Area APCD.

(A) New or amended rules: Regulation 1, section 3121 and Regulation 2, sections 3210.5 to 3210.11.

* * * * *

2. Section 52.234 is amended by adding paragraph (e)(5) as follows:

§ 52.234 Source surveillance.

* * * * *

(e) * * *

(5) Bay Area Intrastate Region:

(i) Bay Area APCD.

* * * * *

[FR Doc. 78-24595 Filed 8-30-78; 8:45 am]

[6560-01]

[PP 8F2039/R159; FRL 958-1]

SUBCHAPTER E—PESTICIDE PROGRAMS

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

Terbacil

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

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide terbacil on pecans. The request was submitted by E. I. du Pont de Nemours & Co. This amendment to the regulations establishes a maximum permissible level for residues of terbacil on pecans.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-2632.

SUPPLEMENTARY INFORMATION: On February 9, 1978, notice was given (43 FR 5564) that E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, had filed a pesticide petition (PP 8F2039) with EPA. This petition proposed that 40 CFR 180.209 be amended to establish a tolerance for combined residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) and its metabolites 3-*tert*-butyl-5-chlo- ro-6-hydroxymethyluracil; 6-chloro- 2,3- dihydro-7-hydroxymethyl-3,3- dimethyl-5*H*-oxazolo(3,2-a) pyrimidin-5- one; and 6-chloro-2,3-dihydro-3,3,7- trimethyl-5*H*-oxazolo(3,2-a) pyrimidin-5- one (calculated as terbacil) in or on the raw agricultural commodity pecans at 0.1 part per million (p.p.m.). No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a 2-year rat-feeding study with a no-observable-effect level (NOEL) of 250 p.p.m., a 2-year dog-feeding study with a NOEL of 50 p.p.m., a three-generation rat reproduction study with a NOEL of 250 p.p.m., and a mutagenic study (phase study).

Desirable data that are lacking are an additional oncogenic study, additional mutagenic studies, and a teratology study. The mutagenic study will be requested when the Agency determines a suitable protocol. In its letter of May 9, 1978, the company agreed to do a teratology study and that the use on pecans will be removed from the label should the results of the second oncogenic study now in progress exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

The theoretical maximal residue contribution (TMRC) for the established tolerances of terbacil is 0.07771 milligram (mg)/day, compared with a maximal permissible intake (MPI) of 0.75 mg/day for a 60-kilogram (kg) man. The MPI is based on an NOEL of 50 p.p.m. in a 2-year dog-feeding study using a safety factor of 100. The 0.1 p.p.m. tolerance on pecans will increase the TMRC by less than 0.01 percent. The acceptable daily intake (ADI), based on the 2-year dog-feeding study, is 0.0125 mg/kg body weight/day.

No actions are currently pending against continued registration of terbacil, nor are there any other relevant considerations for the proposed tolerance. An adequate analytical method (halogen-sensitive microcoulometric gas chromatography after formation of silyl derivations of metabolites) is available for enforcement purposes. Tolerances have previously been established for residues of terbacil on a variety of raw agricultural commodities at levels ranging from 5 p.p.m. to 0.1 p.p.m., and the metabolism of terbacil is adequately understood.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.1 p.p.m. established by amending 40 CFR 180.209 will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before October 2, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objec-

tions are supported by the grounds legally sufficient to justify the relief sought.

Effective on August 31, 1978, part 180 is amended as set forth below.

Dated: August 25, 1978.

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

AUTHORITY: Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).

Section 180.209 is amended by alphabetically inserting pecans at 0.1 p.p.m. in the table in paragraph (b) to read as follows:

§ 180.209 Terbacil; tolerances for residues.

* * * * *

(b) * * *

Commodity:	*Parts per million*
* * * * *	
Pecans	0.1
* * * * *	

[FR Doc. 78-24449 Filed 8-30-78; 8:45 am]

[6560-01]

[FRL 935-5]

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy Labeling

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rulemaking broadens the class of Special Purpose Trucks to include passenger cars which contain unique features and which are not appropriately classified with more conventional passenger automobiles. The name of the new class is *Special Purpose Vehicles*. This change to the classification of vehicles for the fuel economy labeling program is being made to accommodate a new car line which will be sold in the 1979 model year and which does not fit into the existing system of classification.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Ernest Rosenberg, Chief Regulatory Management Staff, Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0596.

SUPPLEMENTARY INFORMATION: Under section 506 of the Motor Vehicle Information and Cost Savings Act, (15 U.S.C. 2006), EPA is required to classify vehicles so that the ranges of fuel economies for comparable vehicles can be shown on fuel economy labels. For 1979, a new line of vehicles is being introduced that does not fit into the current classification system. These vehicles are not clearly either cars or trucks, but the Department of Transportation has classified them as cars.

The *catch-all* category now used in the fuel economy program is called *Special Purpose Trucks*. To accommodate the new line of vehicles and future additions that do not fit into the usual vehicle categories, this action creates a *Special Purpose Vehicle* class incorporating the old Special Purpose Truck class and adding to those vehicles passenger cars that are otherwise unclassifiable.

Classification of the new car line is needed to implement the law's labeling requirements for the 1979 model year and to include the car line in the *1979 Gas Mileage Guide*. There is not enough time to complete a full rulemaking with a comment period prior to the start of production for the 1979 model year.

The addition of special purpose passenger cars to the old Special Purpose Truck class theoretically could result in a significantly higher upper end for the range of fuel economies shown on these vehicles' labels, in which case the relative fuel economy performance of special purpose trucks within the class might appear to be worse.

If the addition of special purpose passenger cars to the old Special Purpose Truck class were to result in a significantly higher upper end for the range of fuel economies shown on these vehicles' labels, the relative fuel economy performance of special purpose trucks within the class might appear to be worse. For example, the addition of small cars to the class might change the range shown on the label from 10 to 20 mpg under the old classification to 10 to 25 mpg. (These are not real values; they are used for illustration only.) This would reflect badly on a truck getting 20 mpg that would have been the best in its class before the change. However, this will not occur since there already are high mileage trucks in the Special Purpose Truck class, so any effect on the upper end of the range will be minor. No adverse effect on any interested party is therefore anticipated.

Thus, this rule is being published as a final rule without the prior issuance of a notice of proposed rulemaking and the provision of an opportunity for public comment on the proposal. Such a curtailed procedure is permitted by 5 U.S.C. 553(b) when the issuance of a proposal and public comment on it would be unnecessary and contrary to the public interest. EPA finds good cause to dispense with notice and public rulemaking proceedings because this change must be made for the 1979 model year to include all vehicles within the classification scheme and it will not adversely affect any interested party. EPA further finds that it is in the public interest for this amendment to become effective upon publication since labeling for the 1979 model year will have already begun by the time this notice is published.

NOTE.—The EPA has determined that this document does not contain a major regulation requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and under OMB Circular A-107.

Dated: August 25, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 600 of chapter I, title 40, is hereby amended by adding a new § 600.315-79 identical to § 600.315-78 except for paragraph (a) which is revised. Section 600.315-79 reads as follows:

§ 600.315-79 Classes of comparable automobiles.

(a) The Secretary will classify automobiles as passenger automobiles or light trucks (nonpassenger automobiles) in accordance with 49 CFR 523.

(1) The Administrator will classify passenger automobiles by car line into one of the following classes based on interior volume index or seating capacity except for those passenger automobiles which the Administrator determines are most appropriately classed as special purpose vehicles as provided in subparagraph (3):

(i) *Two Seaters.* A car line shall be classed as "Two Seaters" if the majority of the vehicles in that car line have no more than two designated seating positions as such term is defined in the regulations of the National Highway Traffic Safety Administration, Department of Transportation, 49 CFR 571.3.

(ii) *Minicompact cars.* Interior volume index less than 85 cubic feet.

(iii) *Subcompact cars.* Interior volume index greater than or equal to 85 cubic feet but less than 100 cubic feet.

(iv) *Compact cars.* Interior volume index greater than or equal to 100 cubic feet but less than 110 cubic feet.

(v) *Midsize cars.* Interior volume index greater than or equal to 110 cubic feet but less than 120 cubic feet.

(vi) *Large cars.* Interior volume index greater than or equal to 120 cubic feet.

(vii) *Small station wagons.* Station wagons with interior volume index less than 130 cubic feet.

(viii) *Midsize station wagons.* Station wagons with interior volume index greater than or equal to 130 cubic feet but less than 160 cubic feet.

(ix) *Large station wagons.* Station wagons with interior volume index greater than or equal to 160 cubic feet.

(2) The administrator will classify nonpassenger automobiles into the following categories: Small pickup trucks, standard pickup trucks, vans, and special purpose vehicles. Pickup trucks will be separated by car line on the basis of gross vehicle weight rating (GVWR). For pickup truck carlines with more than one GVWR, the GVWR of the pickup truck carline is the arithmetic average of all distinct GVWR's less than or equal to 6,000 pounds available for that carline.

(i) *Small pickup trucks.* Pickup trucks with a GVWR less than 4,500 pounds.

(ii) *Standard pickup trucks.* Pickup trucks with a GVWR of 4,500 pounds up to and including 6,000 pounds.

(iii) *Vans.*

(3) All automobiles with GVWR less than or equal to 6,000 pounds which possess special features and which the Administrator determines are more appropriately classified separately from typical automobiles or which do not meet the requirements of subparagraphs (1) and (2) will be classified as *Special purpose vehicles.*

(4) Once a certain car line is classified by the Administrator, the classification will remain in effect for the model year.

(b) Interior volume index—passenger automobiles.

(1) The interior volume index shall be calculated for each car line, which is not a "Two Seater" car line, in cubic feet rounded to the nearest 0.1 cubic feet. For carlines with more than one body style, the interior volume index for the carline is the arithmetic average of the interior volume indices of each body style in the carline.

(2) For all body styles except station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seatbelts as required by DOT safety regulations, interior volume index is the sum, rounded to the nearest 0.1 cubic feet, of the front seat volume, the rear seat volume, if applicable, and the luggage capacity.

(3) For all station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seatbelts as required by DOT safety regulations, interior volume index is the sum, rounded to the nearest 0.1 cubic feet, of the front seat volume, the rear seat volume, and the cargo volume index.

(c) All interior and cargo dimensions are measured in inches to the nearest 0.1 inche. All dimensions and volumes shall be determined from the base vehicles of each body style in each carline and do not include optional equipment. The dimensions H61, W3, W5, L34, H63, W4, W6, L51, H201, L205, L210, L211, H198, and volume V1 are to be determined in accordance with the procedures outlined in Motor Vehicle Dimensions SAE J1100a (Report of Human Factors Engineering Committee, Society of Automotive Engineers, approved September 1973 and last revised September 1975) except as noted herein:

(1) SAE J1100a(2.3) Cargo Dimensions—all dimensions measured with the front seat positioned the same as for the interior dimensions and the second seat, for station wagons and hatchbacks, in the upright position. All head restraints shall be in the stowed position and considered part of the seat.

(2) SAE J1100a(8). Luggage Capacity—Total of columes of individual pieces of standard luggage set plus H-boxes stowed in the luggage compartment in accordance with the procedure described in 8.2. For passenger automobiles with no rear seat or with a rear seat with no rear seatbelts, the luggage compartment shall include the area to the rear of the front seat, with the rear seat (if applicable) folded, to the height of a horizontal plane tangent to the top of the front seatback.

(3) SAE J1100a(7). Cargo Dimensions.

(i) *L210—Cargo length at second seatback height—hatchback.* The minimum horizontal dimension from the "X" plane tangent to the rearmost surface of the second seatback to the inside limiting interference of the hatchback door on the zero "Y" plane.

(ii) *L211—Cargo length at floor—second—hatchback.* The minimum horizontal dimensions at floor level from the rear of the second seatback to the normal limiting interference of the hatchback door on the vehicle zero "Y" plane.

(iii) *H198—Second seatback to load floor height.* The dimension measured vertically from the horizontal tangent to the top of the second seatback to the undepressed floor covering.

(d) The front seat volume is calculated in cubic feet by dividing 1728 into the product of three terms listed below and rounding the quotient to the nearest 0.001 cubic feet:

(1) H61—Effective head room—front. (In inches, obtained according to paragraph (c)),

(2) (i) (W3+W5+5)/2—Average of shoulder and hip room—front, if hip room is more than 5 inches less than shoulder room. (In inches, W3 and W5 are obtained according to paragraph (c) of this section), or

(ii) W3—Shoulder room—front, if hip room is not more than 5 inches less than shoulder room. (In inches, W3 is obtained according to paragraph (c) of this section), and

(3) L34—Maximum effective leg room—accelerator. (In inches, obtained according to paragraph (c) of this section). Round the quotient to the nearest 0.001 cubic feet.

(e) The rear seat volume is calculated in cubic feet, for vehicles with a rear seat equipped with rear seat belts (as required by DOT) by dividing 1,728 into the product of three terms listed below and rounding the quotient to the nearest 0.001 cubic feet:

(1) H63—Effective head room—second. (Inches obtained according to paragraph (c) of this section),

(2) (i) (W4+W6+5)/2=Average of shoulder and hip room—second, if hip room is more than 5 inches less than shoulder room. (In inches, W4 and W6 are obtained according to paragraph (c) of this section), or

(ii) W4—Shoulder room—second, if hip room is not more than 5 inches less than shoulder room. (In inches, W3 is obtained according to paragraph (c) of this section), and

(3) L51—Minimum effective leg room—second. (In inches obtained according to paragraph (c) of this section.)

(f) The luggage capacity is V1, the usable luggage capacity obtained according to paragraph (c) of this section. For passenger automobiles with no rear seat or with a rear seat but no rear seat belts, the area to the rear of the front seat shall be included in the determination of V1, usable luggage capacity, as outlined in paragraph (c) of this section.

(g) Cargo volume index:

(1) For station wagons the cargo volume index V2 is calculated in cubic feet, by dividing 1,728 into the product of three terms and rounding the quotient to the nearest 0.001 cubic feet:

(i) W4—Shoulder room—second. (In inches obtained according to paragraph (c) of this section.)

(ii) H201—Cargo height. (In inches obtained according to paragraph (c) of this section), and

(iii) L205—Cargo length at belt—second. (In inches obtained according to paragraph (c) of this section.)

(2) For hatchbacks, the cargo volume index V3 is calculated in cubic feet, by dividing 1728 into the product of three terms:

(i) Average cargo length, which is the arithmetic average of:

(*A*) L208—Cargo length at second seatback height—hatchback. (In inches obtained according to paragraph (c)) and,

(*B*) L209—Cargo length at floor—second—hatchback. In inches obtained according to paragraph (c));

(ii) W4—shoulder room—second. (In inches obtained according to paragraph (c)) and;

(iii) H197—Second seat back to load floor height. (In inches obtained according to paragraph (c).) Round the quotient to the nearest 0.001 cubic foot.

(h) The following data must be submitted to the Administrator no later than the time of a general label request. Data shall be included for each body style in the carline covered by that general label.

(1) For all passenger automobiles:

(i) Dimensions H61, W3, L34 determined in accordance with paragraph (c).

(ii) Front seat volume determined in accordance with paragraph (d).

(iii) Dimensions H63, W4, L51 (If applicable) determined in accordance with paragraph (c).

(iv) Rear seat volume (if applicable) determined in accordance with paragraph (e).

(v) The interior volume index determined in accordance with paragraph (b) for:

(*A*) Each body style and,

(*B*) The car line.

(vi) The class of the car line as determined in paragraph (a).

(2) For all passenger automobiles except station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

(i) The quantity and letter designation of the pieces of the standard luggage set installed in the vehicle in the determination of usable luggage capacity V1 and,

(ii) The usable luggage capacity V1, determined in accordance with paragraph (f).

(3) For station wagons with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

(i) The dimensions H201 and L205 determined in accordance with paragraph (c) and,

(ii) The cargo volume index V2 determined in accordance with paragraph (g)(1).

(4) For hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

(i) The dimensions L208, L209, and H197 determined in accordance with paragraph (c) and,

(ii) The cargo volume index V3 determined in accordance with paragraph (g)(2).

(5) For Pickup trucks:

(i) All GVWR's of less than or equal to 6,000 pounds available in the car line.

(ii) The arithmetic average GVWR for the car line.

(Sec. 506 of the Motor Vehicle Information and Cost Savings Act as amended by sec. 301 of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871 (15 U.S.C. 2006).)

[FR Doc. 78-24593 Filed 8-30-78; 8:45 am]

[1505-01]

Title 42—Public Health Service

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

SUBCHAPTER C—MEDICAL CARE AND EXAMINATIONS

PART 37—SPECIFICATIONS FOR MEDICAL EXAMINATIONS OF UNDERGROUND COAL MINES

Subpart—Chest Roentgenographic Examinations

Correction

In FR Doc. 78-21226 appearing at page 33713 in the issue for Tuesday, August 1, 1978, make the following corrections:

(1) On page 33714, second column, in the first line of the first full paragraph, "The ARC * * *" should have read "The ACR * * *".

(2) On page 33717, third column, the 20th line of paragraph (a) of § 37.7, "* * * or respirable dust * * *" should have read "* * * of respirable dust * * *".

(3) In the codified material beginning on page 33715 and ending on page 33720, wherever the words "(insert the effective date of these regulations)" appear, supply the date "August 1, 1978".

[4910-22]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[BMCS Docket No. MC-66-1; Amendment No. 77-81]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Lower Location of Rear Side Marker Lamps; Large Semitrailers and Full Trailers; Amendment

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends the Federal Motor Carrier Safety Regulations (FMCSR) to require that large semitrailers and full trailers have their rear side-marker lamps located at a height between 15 inches (381 mm) and 60 inches (1524 mm) above the road surface. This would enable drivers at night and in foul weather, to easily see through their rear view mirrors if the trailer is tracking properly. The present rule allows the lower location as an option.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. D. W. Morrison, Chief Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202-426-1700; or Mrs. Kathleen S. Markman, Office of Chief Counsel, Motor Carrier and Highway Safety Law Division, 202-426-0790; Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: This amendment follows a notice of proposed rulemaking (NPRM) published on November 1, 1976 (41 FR 47948). That notice was prepared following favorable response to an advance notice of proposed rulemaking (ANPRM) published on July 30, 1975 (40 FR 31959), in response to a petition by the International Brotherhood of Teamsters, Chauffers, Warehousemen & Helpers of America (IBT). The petition sought to revise 49 CFR 393.14(c) to require the rear side marker lamp to be mounted at or near the lower rear corner instead of leaving the height optional. The National Highway Traffic Safety Administration (NHTSA) published a notice on January 17, 1977 (42 FR 3187) to amend Federal motor vehicle safety standard No. 108 to require side-

marker lamps to be located as close as practicable to the lower rear corner of the trailer.

The 26 respondents who commented on the NPRM represented the following interests:

1. Driver and driver union organizations—4.
2. Motor carriers and carrier associations—7.
3. Truck leasing companies—2.
4. Electrical equipment manufacturers and associations—5.
5. Trailer manufacturers and associations—7.
6. State police department—1.

Twenty of the respondents favored the proposal; six initially opposed it, but one of these later removed the unfavorable comment.

Of those opposed to the NPRM, three were from trailer manufacturers, two from electrical equipment manufacturers, and one from a motor carrier who subsequently revised his position. The motor carrier misunderstood the intent of the proposed amendment and offered to resubmit a favorable comment.

The trailer manufacturers objected to the proposed mandatory lower location of rear side marker lamps mainly because of possible damage to the lamps in operation, and the fact that many motor carriers already specify a low mounting location for the lamp in question. The objection to damage is understandable, but many vehicles have all the lamps mounted low without any resultant operational damage.

The fact that many carriers do specify low mounting of rear side marker lamps does not detract from the need for a standardization of location which could serve to enhance the safety of operation of a commerical motor vehicle. This rule will increase safety by specifying a fixed location for the lamp with little or no extra cost.

The electrical equipment manufacturers objected because of:

1. Lack of absolute conformance with Federal motor vehicle safety standard No. 108.
2. Field-of-vision limitations of side marker lamps.

The NHTSA published a NPRM on January 17, 1977, proposing to require the low mounting of side marker lamps on large semitrailers and full trailers. The responses to this notice were essentially the same as those to the Federal Highway Administration NPRM.

Regarding the question of field of vision limitations, the comments from several motor carriers using low mounted side marker lamps indicate visibility is not a problem. There may be some visibility problem on vehicles with the lamp recessed or behind side extensions, but it is not considered to be of such a nature as to create any difficulty.

Several commentors offered suggestions for rewording the amended rule, to provide additional clarity. Among them were "capable of being seen in the truck tractor's rearview mirror" by the American Trucking Associations, Inc. Also, "so as to facilitate visibility in a truck tractor's rearview mirror when the trailer is tracking straight," by the Truck Trailer Manufacturers' Association. Except for the changes in wording from the advance notice to the NPRM which were suggested by an earlier comment, the final rule expresses what was proposed.

Several commentors wanted to be certain that no retrofitting of older trailers would be required, and wanted an effective date for new trailers. That date is now supplied. As stated earlier this requirement applies only to new trailers subject to the FMCSR. Voluntary retrofit by carriers is encouraged but is not required.

The National Highway Traffic Safety Administration is publishing elsewhere in today's FEDERAL REGISTER a companion rule to amend FMVSS No. 108 (49 CFR 571.108) designed to remove any conflict between its present requirements for trailer rear side marker lamps and this amendment.

The purpose of the rulemaking is to provide the driver of tractors pulling large semitrailers or full trailers at night a "guidelamp" to constantly check the tracking of the rear end of the trailer. A quick glance into the sideview mirrors to spot the rear side-marker lamps assures the driver that the trailer is not fish-tailing, off tracking, or beginning to jackknife.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Chapter III, § 393.14 is amended by adding a new paragraph (c)(1) after paragraph (c) to read as follows:

§ 393.14 [Amended]

* * * * *

(c) * * *

(1) Exception: Vehicles manufactured on and after October 1, 1978, shall be equipped with side-maker lamps at or near the rear, one on each side, and mounted at a height of not less than 15 inches (381 mm) nor more than 60 inches (1524 mm) above the road surface, as measured from the center of the lamp on the vehicle at curb weight. The rear side-marker lamps shall be visible in the vehicle's rearview mirror when the trailer is tracking straight.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

(Sec. 204, Interstate Commerce Act, as amended, (49 U.S.C. 304); sec. 6, Department of Transportation Act (49 U.S.C. 1655), and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 301.60, respectively.)

Issued on: June 9, 1978.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 78-24386 Filed 8-25-78; 2:26 pm]

[4910-59]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 69-19; Notice 18]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Interim rule and request for comments.

SUMMARY: This notice amends Standard No. 108, *Lamps Reflective Devices, and Associated Equipment*, on an interim basis to delete the requirement that low-speed, motor-driven cycles (mopeds) must have larger stop lamps effective September 1, 1978. The notice also requests comments on whether the interim rule should be made permanent. The agency did not intend to include low-speed mopeds in its amendments of January 5, 1976, adopting SAE Standard J586c as the referenced standard on stop lamps, because it believes that light output would be reduced if stop lamps with larger lens area were required on these vehicles. This action is responsive to a petition by K-D Lamp Co. The effect of the amendment is to retain for mopeds the current requirement that stop lamps have an effective illuminated area of not less than 3½ square inches.

DATES: Effective date: September 1, 1978, comments due: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

W. Marx Elliott, Office of Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1715.

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration makes effective imme-

diately an interim amendment of Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, which relieves low-speed, motor-driven cycles of the necessity to conform to the requirement, effective September 1, 1978, that stop lamps have an effective projected luminous lens area of not less than 8 square inches.

This amendment is being adopted without notice and public procedure and is made effective immediately because of the imminence of the effective date of the stop-lamp requirement. Under the Administrative Procedures Act (5 U.S.C. 553(b)) notice and public procedure on a rulemaking action are not required when such are found to be impracticable and contrary to the public interest. Given the immediate need to relieve manufacturers of motor-driven cycles of the necessity of complying with requirements effective September 1, 1978, it is found that notice and public procedure on this interim amendment would be impracticable and not in the public interest. The interim amendment is made effective immediately. It will remain in effect pending action on the proposed permanent amendment.

The agency has considered the economic impacts of this amendment and believes that it will not increase the cost of motor-driven cycles.

The reasons for this notice are as follows. On January 5, 1976, the agency amended Standard No. 108 to substitute SAE Standard J586c, August 1970, for J586b, June 1966, as the referenced standard on stop lamps (41 FR 765). An amendment to S4.1.1.6 adopted at the same time permitted compliance with the requirements of J586b until September 1, 1978.

The Chief distinction between the two SAE standards on stop lamps is the increase in the minimum size required for the effective projected luminous lens area, from the 3½ square inches of J586b to the 8 square inches of J586c. Paragraph S4.1.1.27 of Standard No. 108, however, permits motor-driven cycles with a top speed of 30 m.p.h. or less to be equipped with a stop lamp whose photometric output is one-half that of the minimum required for motorcycles. An increase in lens area with no increase in minimum light output will reduce the unit area light intensity to a level that is likely to reduce conspicuity of the cycles, and thereby degrade motor vehicle safety.

Due to the agency's oversight, motor-driven cycles of limited top speed were not excluded from the applicability of SAF J586c. K-D Lamp Co. has petitioned for rulemaking to correct the oversight, stating that if relief is not afforded, its primary customer will have to shut down production until a new lamp could be produced. The NHTSA has decided to grant this petition.

The principal authors of this notice are Taylor Vinson of the Office of Chief Counsel and Marx Elliot of the Office of Rulemaking.

§ 571.108 [Amended]

In consideration of the foregoing pargraph S4.1.1.27 of 49 CFR 571.108, Motor Vehicle Safety Standard No. 108 is revised as follows:

S4.1.1.27 A motor-driven cycle whose speed attainable in 1 mile is 30 m.p.h. or less may be equipped with a stop lamp whose effective projected luminous lens area is not less than 3½ square inches and whose photometric output for the groups of test points specified in Figure 1 is at least one-half of the minimum values set forth in that figure.

The agency also requests comments on whether the interim amendment of S4.1.1.27 shall be made permanent.

(Secs. 103, 119, Pub. L. 89-63, 80 Stat. 718 (15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.50).)

Issued on August 25, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-24385 Filed 8-25-78; 2:26 pm]

[4910-59]

[Docket No. 77-1; Notice 2]

PART 571—FEDERAL MOTOR SAFETY STANDARDS

Motor Vehicle Lighting

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

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to specify that rear side marker lamps on large trailers cannot be located higher than 60 inches above the road surface. This action was taken to achieve regulatory consistency with a parallel action of the Federal Highway Administration's Bureau of Motor Carrier Safety (BMCS) which has acted pursuant to a petition by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America ("Teamsters Union"). The effect of the limitation will be to make it more likely that the trailer rear side marker lamp can be viewed in the outside rearview mirror of the tractor pulling it, acting as a reference light by which the tractor driver may check the tracking of the trailer's rear end.

EFFECTIVE DATE: March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Marx Elliott, Crash Avoidance Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C., 20590, 202-426-1714.

SUPPLEMENTARY INFORMATION: On January 17, 1977, NHTSA proposed (42 FR 3187) that rear side marker lamps on trailers with an overall width of 80 inches or more be located "as far to the rear as practicable and as close as practicable to the lower rear corner." The existing requirement is that they be "as far to the rear as practicable" and "not less than 15 inches" above the road surface. This action was taken as a parallel to rulemaking conducted by BMCS which had the following history. BMCS published an advance notice of intent to amend 49 CFR 393.14 to require large semitrailers and full trailers operating in interstate commerce to have the rear side marker lamps at or near the lower rear corner (40 FR 31959). The purpose of the proposal was to enhance traffic safety by providing a driver of a tractor pulling such a trailer with a reference light visible in the outside rearview mirror through which he may check the tracking of the trailer's rear end at night or at such other times as the headlamps are required. The NHTSA tentatively determined that a companion amendment of standard No. 108 was required to preclude a conflict between the requirements of that standard and the BMCS regulations.

BMCS, having evaluated the comments to the advance notice, proposed (41 FR 47948) that rear side marker lamps be "as near as practicable to the lower rear corner, and visible in the rearview mirror of the truck tractor when the trailer is tracking straight behind the tractor." The NHTSA proposal required only that the lamps be located as close as practicable to the lower rear corner. The difference in requirements was dictated by the different safety missions of the two issuing agencies—that of NHTSA, to insure that motor vehicles are manufactured in accordance with Federal motor vehicle safety standards, and that of BMCS, to insure that commercial vehicles in interstate commerce are operated in accordance with that agency's safety requirements. Federal motor vehicle safety standards do not apply to a combination of vehicles (tractor and trailer) and it would not be possible to determine at time of manufacture whether the rear side marker lamp of the trailer would be visible in the rearview mirror of every possible tractor that could tow it.

Fifteen comments were received on the proposal, 11 supporting the reasoning relative to the relocation of the side marker lamp. Six of these, however, recommended that the agency consider establishing a mounting height range due to peculiarities of certain trailer designs. For example, side marker lamps mounted at the lowest position on trailers designed to carry snowmobiles, motorcycles, or boats would be subject to water, dust, mud, and road debris. The R. E. Dietz Co. supported the concept of a tracking light but suggested that a special light be provided for that purpose. The proposal was objected to by, among others, the Truck Safety Equipment Institute (TSEI), because it would eliminate the present option of allowance of a combination clearance—side marker lamp, mounted higher than 60 inches and because low-mounted side marker lamps would not necessarily be visible in tractor rear view mirrors. The Recreational Vehicle Industry Association joined TSEI in objecting on the ground that an option would be eliminated. It also cited potential problems with obscuration by mud or other road matter. Truck Trailer Manufacturers Association was not convinced that the location of the side marker lamp was such an important safety matter that it needed coverage by a Federal regulation. Concern was also expressed that the amendment would not achieve its purpose unless the marker lamps were required to project light toward the towing vehicle, and unless a candlepower output for that light was required.

NHTSA concurs with those commenters who expressed concern about low-mounted side marker lamps, and who suggested that a mounting height range from 15 to 60 inches would be preferable, and has decided to amend standard No. 108 to reflect this comment. BMCS is joining NHTSA in a companion amendment published today (see 43 FR 38830). Such a range will also afford a manufacturer more flexibility with respect to trailers of unique design, and should also come closer to the goal of providing visibility of a reference light in the mirrors of various sized towing vehicles. NHTSA realizes that the clearance—side marker lamp option will no longer be available for those trailers on which the clearance lamp is at a height greater than 60 inches, but has concluded that a height limitation must be adopted to insure a greater likelihood that the purpose of the rulemaking action is achieved. Adequate leadtime is being afforded for design modifications. With respect to visibility of the side marker lamp by the driver, it is true that a lamp meeting standard No. 108's minimum requirement that it be visible at a 45-degree angle from its mounting plane might not provide the reference light desired, but in common practice most of the rear side marker lamps appear to exceed this angle and should be visible in the rear view mirror. Further NHTSA believes that the light output of current side marker lamps is sufficient to provide the desired cue.

In consideration of the foregoing table II of 49 CFR 571.108 Motor Vehicle Safety Standard No. 108 is amended to read as follows:

TABLE II.—*Location of required equipment—Multipurpose passenger vehicles, trucks, trailer, and buses of 80 or more inches overall width*

Item	Height above road surface measured from center of item on vehicles at unit weight
* * *	* * *
Side marker lamps	Not less than 15 in., and on the rear of trailers not more than 60 in.

The program official and lawyer responsible for the development of this amendment are Marx Elliot and Taylor Vinson, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on August 25, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-24387 Filed 8-25-78; 2:27 pm]

[4910-59]

[Docket No. 75-30; Notice 2]

PART 579—DEFECT AND NONCOMPLIANCE RESPONSIBILITY

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice issues a new regulation, Part 579, Defect and Noncompliance Responsibility. The purpose of the regulation is to allocate between motor vehicle and equipment manufacturers the responsibilities under the 1974 Motor Vehicle and Schoolbus Safety Amendments for recalling and remedying defective or noncomplying motor vehicles and equipment. The regulation makes tire manufacturers responsible for original equipment tires as well as tires sold as replacement equipment. Otherwise, the regulation adopts the responsibility scheme in the 1974 amendments. With this notice, the agency defers final action on its proposal concerning the responsibilities of original equipment manufacturers that supply equipment to 5 or more vehicle manufacturers.

EFFECTIVE DATE: September 30, 1978.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. James Murray, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 202-426-2840.

This notice issues a new regulation, Part 579, Defect and Noncompliance Responsibility. A notice of proposed rulemaking was published on December 5, 1975 (40 FR 56930) proposing some reallocation between motor vehicle and equipment manufacturers of the responsibilities for safety-related defects and noncompliances with safety standards. These responsibilities include the duty to notify purchasers of any safety-related defects or noncompliances with safety standards and to make remedy without charge to the purchaser. Currently, the allocation of defect and noncompliance responsibility is governed by section 159(2) of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (the Act) (15 U.S.C. 1419(2)).

The Act authorizes the agency to allocate equitably responsibility for defects and noncompliances between equipment and vehicle manufacturers. The substance of the agency's 1975 NPRM was to shift the burdens of compliance somewhat from the vehicle to the equipment manufacturer. As the NPRM on this issue stated, the legislative history of the Act indicates that the Congress intended for the agency to insure that its defect and noncompliance regulations reflect the realities of the relationship between equipment and vehicle manufacturers.

Comments were received from equipment and vehicle manufacturers and from their representatives. All comments were considered. The Vehicle Equipment Safety Commission did not submit comments.

General Motors Corp. suggested that section 579.1 be changed to indicate that the regulation applies only to part B of the Act, Discovery, notification, and remedy of motor vehicle defects, not to part A, General provisions. Since this regulation exercises the authority granted by section 159 of the Act and that section specifically states that it applies only to part B of

the Act, the agency has incorporated GM's recommended change.

The Midland Ross Corp. suggested that the agency add several minor definitions to the list of definitions. They suggested, for example, that the agency define phrases such as "an item of motor vehicle equipment," and "an item of defective or noncomplying equipment."

With respect to "motor vehicle equipment," the agency notes that the term is defined in the Act at section 102(4). Since the agency does not intend to alter that definition, the term is not defined in this section.

"Defective and noncomplying equipment" also does not require definition for purposes of this section, since "noncomplying equipment" obviously means equipment that does not comply with an applicable Federal motor vehicle safety standard. "Defective equipment," on the other hand, cannot be defined in a fashion that would be appropriate for all cases. Whether equipment is defective in a manner that requires action under the Act would depend upon the type of the equipment involved as well as the nature and extent of the defect. As such, "defective" is a legal determination made on a case-by-case basis and the term, therefore, cannot be absolutely defined in advance.

Many manufacturers complained about the NHTSA's definition of "original equipment." The Eaton and Bendix Corps., for example, indicated that they thought the NHTSA had violated its authority to issue regulations with respect to this term. They suggested that section 159 does not grant sufficient latitude for the agency to alter the Act's defininitions to the extent found in the regulation. The agency disagrees. The language in section 159, "Except as otherwise provided in regulations of the Secretary," and the legislative history of that section very clearly permit the agency to modify the definitions of section 159 of the Act if the agency determines that it would be in the interest of an equitable distribution of enforcement responsibilities upon the various manufacturers. In this instance, the agency has determined that the minor definitional changes included in this regulation will better meet the needs of both the agency and the manufacturers for efficient recalls and remedies.

Several commenters questioned the term "express authorization" as it is used in § 579.4(a)(2). The agency stated in the NPRM preamble that express authorization was not limited to written authorization and that "any type of express authorization given by the vehicle manufacturer for the installation of equipment should be sufficient to make the manufacturer responsible for that equipment." The preamble went on to state that "what constitutes adequate authorization will depend upon the facts of each case." Since the issuance of the preamble, nothing has occurred that leads to a simplified definition of the term "express authorization." Therefore, the agency declines to adopt a definition for this term and restates that it depends upon the circumstances of each case.

Several commenters indicated that proposed paragraph (1) under § 579.4(a) was overbroad in that it required a vehicle manufacturer to be responsible for equipment manufactured by him even when that equipment was not installed by him or at his direction. The NHTSA agrees with these commenters and has deleted paragraph (1) from that section and renumbered the section accordingly.

Section 579.4(b) defines "replacement equipment" to include tires. The commenters on this paragraph, Goodyear and Firestone, agreed with this definition. They stated that they thought it appropriate for tire manufacturers to be responsible for defects and noncompliances in their equipment.

With respect to the application of this regulation to the tire manufacturers, several misunderstandings occurred. Fruehauf Corp. indicated that the fabricating manufacturer of a tire should be the one responsible for the recall of those tires and not the brand name owner. The agency has held the brand name manufacturer responsible in the past for tire identification and recordkeeping (part 574). The Act in section 159(1) holds brand name owners of tires responsible for defects and noncompliances by specifying that the brand name owner shall be deemed the manufacturer of the tires. The agency sees no reason to alter this established pattern of responsibility. However, a fabricating manufacturer and brand name manufacturer might establish by contract that the fabricating manufacturer would conduct all notification and recall campaigns.

In the preamble to the NPRM, The agency erroneously stated that tire manufacturers were required to retain the names and addresses of the owners of vehicles upon which their tires were mounted as original equipment. Tire manufacturers pointed out that this was inaccurate. Part 574 requires tire manufacturers to retain lists of people to whom their tires were sold, including vehicle manufacturers. The vehicle manufacturer would have the names of the owners of the vehicles upon which potentially defective or noncomplying tires were mounted and, if necessary, would supply that list to a tire manufacturer undertaking a recall campaign.

Proposed § 579.5(a) and (b) received very few comments. Commenters to these provisions suggested only minor modifications in their language. GM and the Motor Vehicle Manufacturers Association suggested that the term "safety-related" be added to both sections before defect to indicate that manufacturers only had responsibilities for such defects. Under the Act, manufacturers need only recall and remedy defects that are in fact determined to be safety-related. Accordingly, the agency agrees with the commenters and amends the language of the section accordingly.

GM stated that the last part of paragraph (a) of proposed § 579.5 is unnecessary. That part of the sentence that read "installed on or in the vehicle at the time of its delivery to the first purchaser" is identical to the sentence in § 579.4(a) that defines original equipment. Therefore, its inclusion at this point is redundant and unnecessary. The agency has modified the section by the deletion of that portion of the sentence.

The NHTSA is publishing this regulation without taking final action on proposed § 579.5(c), and is modifying § 579.5(a) to delete all reference to paragraph (c). Paragraph (c) would have placed defect and noncompliance responsibilities upon equipment manufacturers that supplied equipment to 5 or more vehicle manufacturers. This action is being taken without making any substantive determination upon the merits of paragraph (c). A subsequent notice will deal with that paragraph and the comments thereon. However, due to the delay in the issuance of this part and mindful of the fact that the modified definitions are important to the agency's enforcement scheme, the NHTSA has determined that it is in the interest of efficiency to adopt the definitions sections of this regulation as proposed with some minor modifications, while retaining a responsibility section that basically retains the same responsibility provisions as the Act.

The agency has reviewed this regulation with respect to its potential costs and other impacts and has determined that any costs or other impacts will be minimal.

Accordingly, title 49 of the Code of Federal Regulations is amended by the addition of part 579 as set forth below.

(Secs. 103, 108, 112, 113, Pub. L. 89-563, 80 Stat. 718, Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392, 1397, 1401, 1411-1420; delegation of authority at 49 CFR 1.50.)

Issued on August 24, 1978.

JOAN CLAYBROOK,
Administrator.

Sec.
579.1 Scope.
579.2 Purpose.
579.3 Application.
579.4 Definitions.
579.5 Defect and noncompliance responsibility.

AUTHORITY: Secs. 103, 108, 112, 113, Pub. L. 89-563, 80 Stat. 718, Sec. 102. Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392, 1397, 1401, 1411-1420; delegation of authority at 49 CFR 1.50).

§ 579.1 Scope.

This part sets forth the responsibilities under part B of the Act of manufacturers for safety-related defects and noncompliances with Federal motor vehicle safety standards in motor vehicles and items of motor vehicle equipment.

§ 579.2 Purpose.

The purpose of this part is to facilitate the notification of owners of defective and noncomplying motor vehicles and items of motor vehicle equipment, and the remedy of defective and noncomplying vehicles and items of equipment, by equitably reapportioning the responsibility for safety-related defects and noncompliances with Federal motor vehicle safety standards among manufacturers of motor vehicles and motor vehicle equipment.

§ 579.3 Application.

This part applies to all manufacturers of motor vehicles and motor vehicle equipment.

§ 579.4 Definitions.

(a) "Original equipment" means an item of motor vehicle equipment (other than a tire) which was installed in or on a motor vehicle at the time of its delivery to the first purchaser if—

(1) The item of equipment was installed on or in the motor vehicle at the time of its delivery to a dealer or distributor for distribution; or

(2) The item of equipment was installed by the dealer or distributor with the express authorization of the motor vehicle manufacturer.

(b) "Replacement equipment" means—

(1) Motor vehicle equipment other than original equipment as defined in paragraph (a) of this section; and

(2) Tires.

(c) "The Act" means the National Traffic and Motor Vehicle Safety Act of 1966, as amended.

§ 579.5 Defect and noncompliance responsibility.

(a) Each manufacturer of a motor vehicle shall be responsible for any safety-related defect or any noncompliance determined to exist in the vehicle or in any item of original equipment.

(b) Each manufacturer of an item of replacement equipment shall be responsible for any safety-related defect or any noncompliance determined to exist in the equipment.

[FR Doc. 78-24388 Filed 8-25-78; 2:28 pm]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ACCESS, USE, AND RECREATION

Opening of Upper Mississippi River Wildlife and Fish Refuge, Ill., and Certain Other States to Public Access, Use, and Recreation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public access, use, and recreation of Upper Mississippi River Wildlife and Fish Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: June 30, 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 122 West Second Street, Winona, Minn. 55987 (Jerry J. Schotzko), phone 507-452-4232.

SUPPLEMENTARY INFORMATION:

§ 26.34 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

Public use is permitted on the Upper Mississippi River Wildlife and Fish Refuge in accordance with State laws and subject to the following special conditions:

1. The cutting of all live trees or dead, standing timber is prohibited, except that willow may be used for trap stakes, commercial fishing gear, and hunting blinds.

2. No live fire, including hot charcoal, shall be buried and/or left unattended.

3. The abandonment, burying, or placing in the water of garbage, trash, camping and picnic debris, and all other deleterious materials is prohibited.

4. The use on refuge lands of motorized vehicles of any type is prohibited except on designated public roads and routes of travel.

5. All State laws on use, possession, transportation, and sale of all alcoholic beverages which are applicable to the geographic area concerned are adopted and made a part hereof.

6. The use and/or possession on the refuge of all controlled substances, including but not limited to opiates, cocaine, marihuana, hashish, depressants, stimulants, or hallucinogenic drugs is prohibited except when such use or possession is for the person's own use as authorized by law. All State laws on controlled substances applicable to the geographic area concerned are adopted and made a part hereof.

7. Camping, defined as the use of tent camps; bedrolls; and all types of floating craft, motorized vehicles, trailers, and other shelters for overnight stays for the purpose of sleeping, is permitted on the Upper Mississippi River Wildlife and Fish Refuge subject to the following restrictions:

a. The period of camping by an individual or group shall not exceed fourteen (14) consecutive days at any one site or within 300 feet of such site.

b. The leaving of tents, camping equipment, or floating craft at an unoccupied campsite for more than 24 hours is prohibited. Such gear will be considered as abandoned and is subject to impoundment.

c. The erection of tables, fireplaces, latrines, and other structures and facilities related to camping is prohibited unless all vestiges of same are removed when the camper departs from the site.

d. Camping is prohibited on developed access and parking areas and on all other areas posted against camping. Camping on the refuge while engaged in fur animal trapping is prohibited. Camping on land on the refuge while engaged in hunting is prohibited except on sites readily visible from the main commercial navigation channel of the Mississippi River or on designated developed campsites. Camping while engaged in hunting is prohibited in all areas closed to such hunting.

8. The placement on the refuge of boathouses, boat docks, boat slips, storage boxes or sheds, stairways, wells, septic systems, sewer systems of any type, and all other kinds and types of construction is prohibited without written authorization of the refuge manager or his authorized representative. All structures, including boathouses, houseboats, docks, piers, and floats authorized by permit to be moored, anchored, or secured along the shoreline and on the waters of the Mississippi River within the Upper Mississippi River Wildlife and Fish

Refuge must use flotation methods and devices of a type constructed of polyurethane, high-impact polyethylene fiberglass material, or other inert materials to provide flotation. The use of any iron or steel container not fabricated originally for flotation purposes, including barrels, tanks, and other containers originally constructed for the purpose of containing fluids, powders, or similar products is prohibited unless filled with polyurethane.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective until June 30, 1979.

CARL E. POSPICHAL
Assistant Refuge Manager.

AUGUST 18, 1978.

[FR Doc. 78-24607 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Sand Lake National Wildlife Refuge, S. Dak., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 1, 1978, through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake NWR, Columbia, S. Dak. 57433, 605-885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game hunting; for individual wildlife refuge areas.

Big game hunting is permitted on the Sand Lake National Wildlife Refuge, S. Dak., only on the areas designated by signs as being open to hunting. These areas comprising 20,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Big game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open seasons for hunting deer on the refuge are:

(a) Archery season—November 1, 1978, through November 17, 1978; and December 11, 1978, through December 31, 1978.

(b) Firearms season;

(i) Rifle and other legal firearms—November 18, 1978, through November 21, 1978; November 22, 1978, through November 26, 1978; and November 27, 1978, through December 3, 1978.

(ii) Muzzle loading rifles—December 4, 1978, through December 10, 1978.

(2) All hunters must exhibit their hunting license, deer tag, and vehicle contents to Federal or State officers upon request.

(3) Hunters are allowed to drive in the refuge only at times designated by the refuge manager. A list of the regulations is available at Refuge Headquarters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50 CFR part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 22, 1978.

SAM WALDSTEIN,
Refuge Manager,
Sand Lake National Wildlife Refuge.

[FR Doc. 78-24460 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Sand Lake National Wildlife Refuge, S. Dak., to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to migratory game bird hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1978, through December 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake NWR, Columbia, S. Dak., 605-885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Sand Lake National Wildlife Refuge, S. Dak., only on the areas designated by signs as being open to hunting. These areas comprising 275 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for hunting geese on the refuge is from September 30, 1978, through December 24, 1978.

(2) The open season for hunting ducks and coots on the refuge is from September 30, 1978, through November 28, 1978.

(3) Hunting will be from established blinds only, without cost, with each site restricted to no more than two hunters, on a first come, first served basis. Blind sites and their use are more specifically described on a map and a list of regulations available at Refuge Headquarters and at each of the hunting sites.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50 CFR part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

SAM WALDSTEIN,
Refuge Manager,
Sand Lake National Wildlife Refuge.

AUGUST 22, 1978.

[FR Doc. 78-24461 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Pocasse National Wildlife Refuge, S. Dak. to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Pocasse National

Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 18, 1978 through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake NWR, Columbia, S. Dak. 57433, 605-885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; Upland Game Hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Pocasse National Wildlife Refuge, S. Dak., only on the areas designated by signs as being open to hunting. These areas comprising 2,540 acres are delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Upland Game Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for hunting pheasants on the refuge is form November 18, 1978, through November 26, 1978.

(2) Hunters will not be allowed to drive on the refuge, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern upland game hunting on wildlife refuge areas generally which are set forth in title 50, CFR part 32.

The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

SAM WALDSTEIN,
Refuge Manager,
Sand Lake National Wildlife Refuge.

AUGUST 22, 1978.

[FR Doc. 78-24462 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Sand Lake National Wildlife Refuge, S. Dak., to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 11, 1978, through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake National Wildlife Refuge, Columbia, S. Dak. 57433, 605-885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Sand Lake National Wildlife refuge, S. Dak., only on the areas designated by signs as being open to hunting. These areas comprising 20,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for hunting pheasants on the refuge is from December 11, 1978 through December 31, 1978.

(2) Hunters will not be allowed to drive on the refuge, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

SAM WALDSTEIN,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 22, 1978.

[FR Doc. 78-24463 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Pocasse National Wildlife Refuge, S. Dak. to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Pocasse National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 25, 1978 through December 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake National Wildlife Refuge, Columbia, S. Dak. 57433, 605-885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game hunting; for individual wildlife refuge areas.

Big game hunting is permitted on the Pocasse National Wildlife Refuge, S. Dak., only on the areas designated by signs as being open to hunting. These areas, comprising 2,400 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Big game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for hunting deer on the refuge is from November 25, 1978 through December 3, 1978.

(2) Hunters will not be allowed to drive on the refuge, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

under Executive Order 11949 and OMB Circular A-107.

Dated: August 22, 1978.

SAM WALDSTEIN,
Refuge Manager, Sand Lake National Wildlife Refuge.

[FR Doc. 78-24464 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of White Lake National Wildlife Refuge, N. Dak., to Archery Hunting of Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to archery hunting of deer on White Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1 through September 29, 1978, and November 27 through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

John L. Venegoni, Project Leader, Des Lacs National Wildlife Refuge, Kenmare, N. Dak. 58746, 701-385-4046.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations, big game, for individual wildlife refuge areas.

Public archery hunting of deer will be permitted on White Lake National Wildlife Refuge. The entire refuge of 1,040 acres located in Slope County will be open for archery hunting. Hunting shall be in accordance with all applicable State regulations covering archery hunting of deer, subject to the following conditions:

(1) No motorized vehicles will be allowed within the boundaries of the refuge.

(2) Archery hunting is permitted from 12 noon (CDT) September 1 to sunset September 30, and from 12 noon November 27 to sunset December 31, 1978.

The provisions of this special regulations supplement the regulations which govern hunting on Wildlife Refuge Areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 31, 1978.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 25, 1978.

ROLLAND J. KRIEGER,
Acting Project Leader, Des Lacs National Wildlife Refuge Complex.

[FR Doc. 78-24466 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Lake Zahl National Wildlife Refuge, N. Dak. to Archery Hunting of Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to archery hunting of deer on Lake Zahl National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1 through September 29, 1978, and November 27 through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

John L. Venegoni, Project Leader, Des Lacs National Wildlife Refuge, Kenmare, N. Dak. 58746, 701-385-4046.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

Public archery hunting of deer will be permitted on Lake Zahl National Wildlife Refuge. The refuge portion owned in fee title consisting of 3,296 acres located in northern Williams County will be open for archery hunting. Hunting shall be in accordance with all applicable State regulations covering archery hunting of deer, subject to the following conditions:

(1) No motorized vehicles will be allowed within the boundaries of the rufuge.

(2) Archery hunting is permitted from 12 noon (CDT) September 1 to sunset September 29, and from 12 noon November 27 to sunset December 31, 1978.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas, generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1978.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 25, 1978.

ROLLAND J. KRIEGER,
Acting Project Leader, Des Lacs National Wildlife Refuge Complex.

[FR Doc. 78-24467 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Lostwood National Wildlife Refuge, N. Dak., to Hunting of Sharp-Tailed Grouse and Hungarian Partridge.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of sharp-tailed grouse and Hungarian partridge on a portion of Lostwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 16, 1978, through November 16, 1978, and from November 27, 1978, through December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

John L. Venegoni, Project Leader, Des Lacs NWR, Kenmare, N. Dak. 58746, 701-385-4046.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; unpland game; for individual wildlife refuges.

Public hunting of sharp-tailed grouse and Hungarian partridge on the Lostwood National Wildlife Refuge, N. Dak., is permitted only on that area designated by signs as open to hunting during the dates indicated above. The open area, comprising 4,720 acres during the September 16 to November 16 season and 26,101 acres during the November 27 to December 10 season, is delineated on maps available at the refuge headquarters, Kenmare, N. Dak., and from the Area Manager, U.S. Fish and Wildlife Service, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations and the following special conditions.

(1) Vehicle travel is restricted to public highways and the refuge entrance road from State Highway No. 8 to refuge headquarters. All other refuge roads and trails are closed to vehicles.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas, generally, which are set forth in title 50, Code of Federal Regulations, Part 32, and are effective through December 10, 1978.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 25, 1978.

ROLLAND J. KRIEGER,
Acting Project Leader, Des Lacs National Wildlife Refuge Complex.

[FR Doc. 78-24468 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Chincoteague National Wildlife Refuge, Va., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Chincoteague National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 14, 1978 through January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

J. C. Appel, Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Va., 23336, telephone 804-336-6122.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on designated areas shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all State regulations subject to the following special conditions:

1. Species to be taken: (a) Archery hunt—Sika and whitetail deer, (b) Stag hunt—Sika and whitetail deer.

2. Bag limits: (a) Archery hunt—One per day, three per license year, (b) Stag hunt—One per day, three per license year. The first deer must be an adult female or a buck with unbranched antlers. The second and third deer may be either an adult female, a buck with unbranched antlers, or a trophy stag (five points or better), but bag limit of three may not include more than one trophy stag or more than two adult females.

3. Season: (a) Archery—Will coincide with the State archery deer season (October 14 to November 11), (b) Stag hunt—Seven 5-day hunts (November 20-24, November 27-December 1, December 4-8, December 11-15, December 18-22, December 25-29, and January 1-5, 1979).

4. Hunting equipment: (a) Archery—Long bow, recurve, or compound bow and arrows (cross bow prohibited). Archers must use broadheads with blades at least seven-eighths inch wide and bows capable of propelling any arrow in their possession 125 yards. All arrows in an archer's possession while hunting must be permanently marked with hunter's name and address. Archers may not have firearms or illegal archery equipment in their possession while hunting. (b) Stag hunt—All firearms must function as a single shot only. Modern firearms may be used if modified to hold only one round. Rifles of .23 caliber or larger and shotguns of 20 gauge or larger will be permitted. Slugs only will be permitted in shotguns. Possession of firearms or ammunition on refuge which is not stipulated as permitted in these regulations is prohibited.

5. Dogs are prohibited.

6. Hunting hours—Same as State hunting hours. All hunters must be clear of hunting areas by 2 hours after the close of legal hunting hours.

7. Carrying loaded firearms or nocked arrows in or on a vehicle or shooting from a vehicle is prohibited.

8. Camping and fires on refuge are prohibited.

9. All hunters under 18 years of age must be accompanied by an unarmed adult.

10. One other individual may accompany each hunter, but only one gun will be allowed per area.

11. All wounded deer will be reported to refuge personnel immediately, so that data on wounded deer can be gathered. All deer taken on the area must be brought to the maintenance area to be checked out. Jawbones may be removed by refuge personnel.

12. Shooting at wildlife other than deer is prohibited.

13. Before any hunter is issued a permit, he/she must meet the following hunter qualification standards:

(a) All firearm hunters must provide proof of passing a State hunters safety course.

(b) Archery hunters must provide proof of passing the national Field Archery Association bowhunters education program, or equivalent course. This course is required to be taken only once, but archery qualification is required each year.

(c) All hunters are required to wear a minimum of 400 total square inches of a safety fluorescence color material on the head, chest, and back.

(d) Youths who have not reached their 18th birthday must hunt under the control of a qualified adult hunter or a legal guardian.

(e) Hunters/applicants must have a written certification from a range officer (civilian or military), police officer, or refuge personnel that they have performed the following qualifications test or tests:

(1) Archery: Place three out of five shots in a 9- by 12-inch chest area of a standard size deer target at 25 yards.

(2) Rifle, shotgun with rifle slugs, and muzzleloaders: Place three consecutive shots in a 12-inch bullseye from 50 yards or better from an offhand position. This is a lifetime qualification subject to verification.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 24, 1978.

[FR Doc. 78-24608 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Eastern Neck National Wildlife Refuge, Maryland, to Hunting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Eastern Neck National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 18, 1978, through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Phillip Feiger, Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Md. 21661, telephone 301-639-7056.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer on the Eastern Neck National Wildlife Refuge, Maryland, is permitted on all areas except county roads, parking areas, and areas designated by signs as closed to hunting. This open area, comprising 2,169 acres, is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) White-tailed deer may be taken from sunrise to sunset during the following open seasons:

Archery only: October 18, 19, 20, and 21, 1978.
Muzzle-loading longarm only: October 23, 25, and 28, 1978.
Shotgun only: November 30, December 1 and 2, 1978.

(2) Bag limits: One deer, either sex.

(3) All participants in the deer hunt must check in and out at the refuge check station before entering or leaving the refuge. All deer killed must be presented for examination at the refuge check station on the day killed.

(4) Hunters may not enter the refuge earlier than one-half hour before sunrise and must check out no later than one hour after sunset.

(5) Possession of loaded firearms, including arrows notched in bows, is not permitted on county blacktop roads, in parking areas, in or on vehicles, and before shooting hours.

(6) All hunters must enter and leave by way of State Road 445 only. Entry by boat is not permitted.

(7) During all refuge hunts, hunters must furnish and wear, so as to be readily noticeable, daylight flourescent orange caps or hats and a minimum of 144 square inches of fluorescent orange material worn on the chest and on the back above the waistline.

(8) Hunters under 18 years of age must be accompanied by a hunting, permit-holding adult.

(9) Contained fire cooking devices will be permitted within fifty (50) feet of legally parked vehicles and in the Bogle's Wharf and Ingleside Recreation Areas.

(10) All hunters must exhibit their hunting equipment, game Federal permit, Federal qualification certificate, State hunting license, and deer-turkey stamp to Federal or State officers on request.

(11) A completed proficiency certificate will be required of all hunters. Valid proficiency certificates will be honored for three (3) years. The certificate will contain identification of shooter, identification of certifying individuals and identification of bows and firearms with which the hunter is proficient. Required proficiency levels for muzzle-loading firearm and shotgun hunters are placement of three (3) consecutive shots in a twelve (12) inch bullseye at a fifty (50) and thirty (30) yard distance respectively using an off-hand firing position. Bow hunters must successfully complete part IIB of the Bow Hunter Education Course given by the National Field Archery Association requiring the placement of three (3) out of five (5) consecutive shots in a twelve (12) inch diameter circle in the chest area or a standard deer target at varying distances from ten (10) to thirty (30) yards. All firearms, ammunition, load sizes and arrows must be legal for the taking of deer in the State of Maryland and the bows and firearms used to hunt must be the same as those used to qualify.

(12) All arrows in possession of archery hunters must have the hunter's full name and address legibly and permanently affixed with indelible ink, paint or etched into the arrow shaft.

(13) Use or possession of alcoholic beverages by hunters is not permitted during the hunt.

(14) A Federal hunt permit will be required of all participants in the deer hunts. Permits will be issued in advance of the season to hunters selected by lottery. Permits will be limited to seventy-five (75) per day for gun hunts, and one hundred (100) per day for archery hunts.

(15) The permit must be returned to the refuge at check-out or, in the case of persons unable to hunt on the day selected, the permit must be returned prior to December 31, 1978. Noncompliance with this and other regulations will subject hunter to regular penalties and, in addition, will be grounds for non-selection in future hunts.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 24, 1978.

[FR Doc. 78-24609 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Moosehorn National Wildlife Refuge, Maine, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Moosehorn National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 4, 1978, through November 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Douglas Mullen, Moosehorn National Wildlife Refuge, P.O. Box X, Calais, Maine 04619, telephone 207-454-3521.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Moosehorn National Wildlife Refuge, Maine, is permitted except on areas designated by signs as closed during the State firearms season. This open area, comprising approximately 21,000 acres, is shown on maps available at Refuge Headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has detemined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 22, 1978.

[FR Doc. 78-24610 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Necedah National Wildlife Refuge, Wisconsin to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Necedah National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATE: September 16, 1978 to December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

James M. Carroll, Jr., Refuge Manager, Necedah, Wis., telephone 608-565-2551.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer and unprotected mammal species as listed in the 1978 Wisconsin big game hunting regulations on the Necedah National Wildlife Refuge, Wis., is permitted with bow and arrow from September 16 through November 12, 1978 and December 2 through December 31, 1978, and with firearms from November 18 through November 26, 1978, but only those areas designated by signs as open to hunting. These open areas comprising approximately 39,000 acres are delineated on a map available at the refuge headquarters, Necedah, Wis. and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations subject to the following condition:

1. The use of permanent blinds, platforms or scaffolds is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting of wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 23, 1978.

JAMES M. CARROLL, Jr.,
Refuge Manager.

[FR Doc. 78-24611 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Presquile National Wildlife Refuge, Virginia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Presquile National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 13, 1978, through November 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Harold Olsen, Presquile National Wildlife Refuge, Box 620, Hopewell, Va. 23860, telephone 804-458-7541.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer on the Presquile National Wildlife Refuge is permitted on the entire refuge except within 200 yards of all buildings. Hunting shall be in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

1. A Federal permit will be required at no charge to the applicant. Bow hunter applicants who provide proof by September 25 of having successfully completed the National Field Archery Association bow-hunter education course and the weapons qualification test described below will be automatically issued a permit. Gun hunter applicants who provide proof of having passed a State approved hunter safety course by September 25 will also be automatically issued a permit. The permits remaining will be issued to hunters selected from a public drawing to be held at 1 p.m. on September 27 in the refuge office, Hopewell, Va. The only exception to this procedure would be if there were more applicants who had taken the specified safety course than there are stands available for hunting. In this case a drawing would be held for this particular group of people only. Permits are nontransferable. Alternates will also be selected from standby hunters at the ferry landing to fill stands left open by permittees who do not show up. Bow hunters must pass an archery qualification test which will consist of placing 3 out of 5 arrows in a 9 by 14 inch chest area of a standard deer size target at 25 yards. In order to be in the drawing for an archery permit, archers must submit a certification statement to the refuge office by September 25. The statement must bear the name and address of the archery range and signature of range official who actually witnessed the qualification.

2. Only white-tailed deer may be taken from one-half hour before sunrise to one-half hour after sunset with bow and arrow only on October 13, 14, 20, and 21; and with shotgun on October 28 and November 4, 1978.

3. Bag limits: One deer per day, either sex.

4. All hunters must enter the refuge on the ferry at 6 a.m. e.d.t. (5 a.m. e.s.t.) except that boats with engines no larger than 10 hp. will be permitted only for those hunters desiring to hunt in the swamp. All boat occupants must wear a life jacket. Before leaving the refuge, hunters must be checked out by refuge officials either at the official State checking station at the refuge headquarters or at the boat launch area on the mainland.

5. Possession of firearms on the refuge during the bow and arrow only hunts is prohibited.

6. All arrows in the possession of each hunter must be marked with the stand number issued to the hunter.

7. Only buckshot is permitted during the shotgun hunts.

8. Each hunter will be assigned a stand corresponding to his permit number. Shotgun hunters will remain on their assigned stand throughout the day's hunt. Bow hunters will remain on their assigned stand from one-half hour before sunrise to 10 a.m. From 10 a.m. to one-half hour after sunset, they may hunt anywhere within the open area.

Gun hunters must wear fluorescent orange (144 sq. inches min.) at all times; bow hunters must wear fluorescent orange when going to and from their stand, and when hunting away from their stand.

9. All hunters under 18 years of age must be accompanied by and under the immediate supervision of an adult.

10. Scouting will be permitted on October 6 and 7, 1978. The refuge ferry will take passengers to the island at 8 a.m. e.d.t. and return to the mainland at 10 a.m. and 12 noon.

11. Special regulations and maps are available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway

Center, Suite 700, Newton Corner, Mass. 02158.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 22, 1978.

[FR Doc. 78-24612 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Upper Mississippi River Wildlife and Fish Refuge, Illinois and Certain Other States to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to Upland Game Hunting of Upper Mississippi River Wildlife and Fish Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: June 30, 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 122 West Second Street, Winona, Minn. 55987, (Jerry J. Schotzko) Phone 507-452-4232.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations, upland game, for individual wildlife refuge areas.

The public hunting of upland game birds and upland game animals on the Upper Mississippi River Wildlife and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin is permitted on the areas designated by signs as "Public Hunting Area". Restricted hunting of these species is also permitted on the areas designated by signs as "Area Closed", except that the Goose Island closed area in pool 8 is closed at all times to hunting and the discharge of guns is prohibited thereon. The "Public Hunting Area" comprising 148,000 acres and the "Closed" areas comprising 46,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be subject to the following special conditions;

1. Hunting on designated "Public Hunting Areas" concurrent with applicable State seasons is permitted, but only during the period from the first day of the earliest fall State game bird or game animal season applicable to the geographic area concerned, until the end of the applicable State seasons, or until the next succeeding March 1, whichever occurs first.

2. Except for the Goose Island closed area which is closed to hunting at all times, hunting on designated "closed" areas concurrent with applicable State seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable State seasons, or until the next succeeding March 1, whichever occurs first.

3. The hunting of upland game birds and upland game animals shall be in accordance with all applicable State regulations which are adopted herein and made a part of this regulation.

4. No person shall hunt upland game birds or animals on the Upper Mississippi River Wildlife and Fish Refuge during any period that a person's small game hunting privileges are suspended or under revocation in any State or Canadian Province for game law infractions.

5. Except with permission in writing obtained from the refuge manager, the discharge of guns of all types is prohibited on all lands and waters of the Upper Mississippi River Wildlife and Fish Refuge during the period from March 1, until the first day of the earliest fall State game bird or game animal season applicable to the geographic area concerned.

NOTE.—The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective until June 30, 1979.

CARL E. POSPICHAL,
Assistant Refuge Manager.

AUGUST 18, 1978.

[FR Doc. 78-24613 Filed 8-30-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Upper Mississippi River Wildlife and Fish Refuge, Ill., and Certain Other States to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Upper Mississippi River Wildlife and Fish Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: June 30 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 122 West Second Street, Winona, Minn. 55987 (Jerry J. Schotzko), phone 507-452-4232.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

The public hunting of deer on the Upper Mississippi River Wildlife and Fish Refuge, Ill., Iowa, Minn., and Wis., is permitted on the areas designated by signs as "Public Hunting Area." Restricted hunting of deer is also permitted on the areas designated by signs as "closed" to hunting, except that the Goose Island closed area in pool 8 is closed to all hunting at all times. The "Public Hunting Areas" comprising 148,000 acres and the "closed" areas comprising 46,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the Regional Director, U.S. fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be subject to the following conditions:

1. Bow and gun deer hunting on designated "Public Hunting Areas" is permitted concurrent with applicable State seasons.

2. Except for the Goose Island closed area which is closed to hunting at all times, bow and gun deer hunting on designated "closed" area concurrent with applicable State seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable State seasons, or until the next succeeding March 1, whichever occurs first.

3. The hunting of white-tailed deer shall be in accordance with all applicable State regulations which are adopted herein and made a part of this regulation.

4. No person shall hunt deer on the Upper Mississippi River Wildlife and Fish Refuge during any period that person's big game hunting privileges are suspended or under revocation in any State or Canadian Province for game law infractions.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective until June 30, 1979.

CARL E. POSPICHAL,
Assistant Refuge Manager.

AUGUST 18, 1978.

[FR Doc. 78-24614 Filed 8-30-78; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Opening of Upper Mississippi River Wildlife and Fish Refuge, Ill., and Certain Other States to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Upper Mississippi River Wildlife and Fish Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: June 30, 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 122 West Second Street, Winona, Minn. 55987 (Jerry J. Schotzko), phone 507-452-4232.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; sport fishing; for individual wildlife areas.

Sport fishing, commercial fishing, and the taking of frogs, turtles, crayfish, and clams on the Upper Mississippi River Wildlife and Fish Refuge, Ill., Iowa, Minn., and Wis., is permitted on all water areas of the refuge. The refuge water areas comprising 125,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. All fishing is subject to the following conditions:

1. Unless further restrictions are imposed by this regulation, all fish, frogs, turtles, crayfish, and clams shall be taken in accordance with all applicable State regulations and seasons which are adopted herein and made a part hereof.

2. All sport and commercial fishing and all travel by boat or any other means across, through or on the Spring Lake Closed Area of the Upper Mississippi River Wildlife and Fish Refuge in Carroll County, Ill., is prohibited from October 1 through December 20.

3. All persons, including their helpers exercising the privilege of commercial fishing on the Spring Lake Closed Area must possess a valid commercial fishing permit issued by the Refuge Manager and must abide by the conditions which are set forth in the permit.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective until June 30, 1979.

CARL E. POSPICHAL,
Assistant Refuge Manager.

AUGUST 18, 1978.

[FR Doc. 78-24615 Filed 8-30-78; 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.

[3128-01]

DEPARTMENT OF ENERGY

Federal Energy Administration[1]

[10 CFR Part 211]

MANDATORY PETROLEUM ALLOCATION REGULATIONS

Guidelines To Include Petroleum Substitutes in the Entitlements Program

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed guidelines.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby proposes guidelines to be used in evaluating applications made pursuant to the final rule published in 43 FR 21429 (May 18, 1978) which amended the mandatory petroleum allocation regulations to include petroleum substitutes under the entitlements program.

DATES: Comments are due on or before October 30, 1978.

ADDRESS: Send comments to: Department of Energy, Public Hearing Management, room 2313, 2000 M Street, Box UT, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures) 2000 M Street, NW., room 2222A, Washington, D.C. 20461, 202-254-5201.

William Webb ((Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., room B110, Washington, D.C. 20461, 202-634-2170.

Dave Welsh (Fuels Regulation), Economic Regulatory Administration, 2000 M Street NW., room 6125, Washington, D.C. 20461, 202-254-3336.

Cheryl B. Anderson (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., room 7134, Washington, D.C. 20461, 202-566-2085.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose.
II. Comments Requested.
III. Comment Procedures.

I. Background and Purpose

On May 12, 1978, the ERA issued a final rule which amended the mandatory petroleum allocation regulations to include synthetic fuels in the entitlements program (43 FR 21429 (May 18, 1978)). The purpose of the final rule was to remove the inconsistency which had previously existed regarding the treatment under the entitlements program of synthetic liquid fuels and imported crude oil, by providing for the issuance of entitlements with respect to certain synthetic fuels.

The final rule provides that shale oil produced from domestic oil shale and used in a refinery as a feedstock or fuel automatically will receive entitlement benefits on the same per barrel basis as crude oil. The rule also provides that the ERA may, on a case-by-case basis, grant entitlements benefits for petroleum substitutes produced from domestic sources of biomass, coal, solid waste, and tar sands, as well as shale oil used outside a refinery, to promote the objective of promoting the development of petroleum substitutes from nonpetroleum domestic resources and thus reduce our dependence on imported crude oil or fuels refined from crude oil.

The purpose of this notice is to propose and to receive public comments on the guidelines under which applications for entitlements benefits for these petroleum substitutes will be processed and evaluated. Appended to the proposed guidelines is a proposed application form.

These proposed guidelines are intended to advise potential applicants as to the criteria to be applied in determining whether ERA will grant entitlements to a petroleum substitute. They are not intended to create any fixed and absolute rules. The proposed criteria would operate as flexible standards, but the ultimate decision whether to grant entitlements will depend upon all the relevant facts and circumstances of the particular case. Pending issuance of final guidelines, ERA will accept and process applications under the proposed guidelines.

II Comments Requested

The contents of the proposed guidelines, application form and instructions appended to this notice are intended to be self-explanatory, and will not generally be recited here. We encourage comment with respect to any aspect of these proposed guidelines, forms and instructions, especially with regard to whether they are sufficiently clear and complete.

The general purpose of this program is to provide for entitlement benefits to petroleum substitutes produced from certain domestic raw materials, in order to maximize the use of domestic energy resources and reduce U.S. dependence upon imported crude oil. The grant of entitlement benefits to qualifying substitutes should serve this purpose by treating such substitutes on the same basis as imported crude oil. As the entitlement benefits for imported crude oil diminish because of the gradual increase in domestic crude oil prices, the absolute value of the benefits earned by petroleum substitutes likewise will decrease.

Therefore, a principal criterion to be applied in determining whether to grant entitlement benefits is whether a substitution of the petroleum substitute for crude oil or fuels refined from crude oil will occur. We have considered but have not included in these proposed guidelines a requirement that the applicant show that use of the petroleum substitute would result in a reduction of imports, since we believe that in many cases it would be extremely difficult, if not impossible, for the applicant to make this showing. Logically, expanded reliance upon domestic synthetic fuels that will replace petroleum products will generally effect a reduction in imports below the level that would otherwise occur. However, the applicant must show that the petroleum substitute will result in a substitution for crude oil or fuels refined from crude oil.

A second criterion for granting entitlement benefits for the petroleum substitute involves two factors: whether producton of the substitute results in a net gain of energy and/or a "higher-valued fuel" than that consumed in the production process. Generally, a "higher-valued fuel" is one which is in short supply because of heavy consumer dependence on it. These factors would be applied together in determining whether entitlement benefits are appropriate. There is no set formula by which these factors would be applied, but in general they would operate as trade-offs to be

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

weighed against each other in reaching a decision.

For example, if a process utilized 1 Btu of natural gas to obtain 2 Btu's of alcohol (for use as a fuel blending agent), the process would result in a net energy gain. However, the ERA may still in its discretion deny entitlement benefits on the ground that the process did not result in a higher-valued fuel, since natural gas is generally in short supply and many consumers are particularly dependent upon it. If 10 times as many Btu's were consumed in the process, weighing of these considerations might yield a different result. On the other hand, a process that utilizes 2 Btu's of sugar beet residue to obtain 1 Btu of alcohol may not result in a net energy gain, but may result in a higher-valued fuel in the sense that the fuel consumed is not one upon which a large number of consumers are particularly dependent.

We request comments upon these observations, as well as any other issues that you believe are raised by the proposed guidelines, form and instructions. any revisions necessary to take account of valid comments or otherwise to improve the program are within the scope of this proceeding.

III. Comment Procedures

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the guidelines. Your comments should be identified on the outside envelope and on documents submitted with the designation "Petroleum Substitute Guidelines," Box UT. All comments received will be available for public inspection in the Department of Energy ("DOE") Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. We will consider all comments received by 4:30 p.m. on October 30, 1978, and all other relevant information before taking further action on this matter.

Any information you consider confidential must be so identified. ERA reserves the right to determine the confidential status of the information and to treat it according to our determination.

As indicated in the notice adopting the final rule (43 FR 21429 (May 18, 1978)), it has been determined that a regulatory analysis need not be performed concerning the amendment to which these guidelines relate. We are presently reiewing the comments received in response to the final rule, with a view to determining whether and what extension of the rule to other synthetic fuels would be appropriate. If ERA decides to propose an extension to other fuels, we will then consider whether a regulatory analysis is necessary and appropriate with respect to such an action.

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

Issued in Washington, D.C., August 24, 1978.

Hazel R. Rollins,
Deputy Administrator,
Economic Regulatory Administration.

Appendix—Guidelines for Evaluation of Applications for Designation as a Producer, Marketer or Consumer of Petroleum Substitutes in the Entitlements Program

1. BACKGROUND AND PURPOSE

On May 12, 1978, the Economic Regulatory Administration (ERA) issued a final rule amending the mandatory petroleum allocation regulations to include petroleum substitutes [1] in the entitlements program (43 FR 21429, May 18, 1978). The final rule provides for the automatic inclusion in the entitlements program of petroleum substitutes made from domestic oil shale and used by a refiner in a domestic refinery as feedstock or fuel. The final rule also provides that the ERA may, on a case-by-case basis, grant entitlement benefits for petroleum substitutes made from domestic biomass, coal, solid waste or tar sands, and for non-refinery uses of domestic shale oil. These guidelines set forth the procedures and criteria under which ERA will review each application and determine an applicant's eligibility to participate in the program.

2. WHO MAY APPLY

If you are currently producing a petroleum substitute, constructing a facility to produce a petroleum substitute, or planning, designing, or otherwise considering the development of a facility to produce a petroleum substitute from domestic biomass, coal, oil shale, solid waste, or tar sands, you may apply for designation as a producer of a petroleum substitute that is eligible to receive entitlements. If you are a marketer or consumer (including a refiner) of a petroleum substitute, you may apply for entitlements whenever the producer (and any other entity through which you directly or indirectly obtain the substitute) does not desire to apply. However, you must obtain and provide ERA with the written agreement of the producer and any other entity preceding you in the distribution chain not to claim entitlements with respect to such substitute. After review of the application, if ERA determines that the petroleum substitute qualifies for entitlements, it will designate the entity in the production and distribution chain that will participate in the entitlements program with respect to that petroleum substitute. The direct entitlement benefit will be given to only one member in the production and distribution chain, although other entities in the production and distribution chain may receive the benefits indirectly in their cost for raw materials or for the petroleum sutstitute. Each designee (whether a producer, marketer or consumer of a petroleum substitute) will (if qualified) receive the entitlement benefits when the petroleum substitute is actually produced and sold or consumed as a petroleum substitute. Benefits will be granted only for the volume of petroleum substitute being sold or consumed, as the case may be, by the designee.

3. CONTENTS OF APPLICATION

The application will consist of a completed Form ERA-83 (Attachment A) and any supplementary information requested in the instructions to the form.

4. WHERE TO MAIL YOUR APPLICATION

If you want ERA to designate you as a producer, marketer, or consumer of a petroleum substitute for the entitlements program, submit the Form ERA-83 to the following address: Economic Regulatory Administration, Fuels Regulation, Petroleum Substitutes, P.O. Box 19326, Washington, D.C., 20036.

5. CRITERIA FOR REVIEW OF APPLICATION

ERA will review applications to determine that each of the following criteria are met:

(a) *Liquid Form.* The petroleum substitute produced in the described process is in liquid form.

(b) *Source—Domestic.* The petroleum substitute produced must be derived from domestic sources of biomass, coal, oil shale, solid waste, or tar sands. Petroleum substitutes derived from oil shale and used by a refiner in a domestic refinery as feedstock or fuel are automatically included in the entitlements program and no application is needed. Under no conditions will imported supplies of biomass, coal, oil shale, tar sands or solid waste be considered eligible sources of petroleum substitute for purposes of this program.[2]

(c) *Usage—Fuel, Feedstock.* Once produced the petroleum substitute must be consumed or marketed for consumption and used in one or more of the following manners before the ERA can designate it as a petroleum substitute:

(1) Refinery feedstock;
(2) Fuel blendstock;
(3) Boiler or engine fuel; or
(4) Any other direct use as a fuel.

(d) *Net Energy Gain and/or "Higher-Valued Fuel."* The determination to grant the entitlements will be in part dependent upon whether production of the substitute results in a net gain of energy and/or whether the substitute is a "higher-valued fuel" than that consumed in the process. The description of the process by which the petroleum substitute is manufactured should demonstrate the relative energy value (in Btu's) of the petroleum substitute produced compared to the energy value (in

[1] A petroleum substitute is any synthetic liquid fuel produced from designated domestic resources and used in the United States as a substitute for petroleum as a refinery feedstock, as a fuel blendstock, or as a fuel.

[2] Certain synthetic crude oil made from tar sands and imported from Canada is already included in crude oil runs to stills for purposes of the entitlements program. See 10 CFR 211.67(d)(3), and 40 FR 39847, August 29, 1975. However, petroleum substitutes made in the United States from imported tar sands are not included.

Btu's) of the fuel consumed by the process. The process description should futher demonstrate why the petroleum substitute produced is a "higher-valued fuel" than those fuels consumed in its production.

The primary factors in the determination of whether a fuel is a higher-valued fuel are: (1) The availability in the United States of the fuels consumed in production, and the degree of dependency of consumers upon such fuels; and (2) the availability in the United States of fuels which the petroleum substitute will supplant, and the degree of dependency of consumers upon such fuels. Natural gas and petroleum products which are in short supply will ordinarily be considered higher-valued fuels, and consumption of substantial quantities of such fuels to manufacture the petroleum substitute will be less likely to result in a determination that the resultant product is a "higher-valued fuel."

(e) *Environmental impact of the petroleum substitute.* You should identify the particular components of the petroleum substitute that differ from those of the crude oil-based fuel that the petroleum substitute will replace, and identify the incremental environmental effects of burning or evaporating the petroleum substitute or of its production. You should assess the environmental effects in light of the quantities and expected uses of the substitute. If prior studies or determinations concerning the environmental effects of the substitute have been made, you should provide a copy of the relevant portions of these studies or determinations. If you do not know the environmental effects of your project, indicate this in your application and ERA will assist you.

(f) *Petroleum substitution.* You should describe how, when, the circumstances under which the petroleum substitute will be substituted for the use of crude oil or refined petroleum products. A showing that such a substitution will occur is necessary in order to obtain entitlements benefits.

(g) *Who will receive entitlement benefits.* The entitlement benefits will be given to only one person, group, firm, or corporate entity in the distribution chain from the producer of the petroleum substitute through to the consumer of the final product. The producer of the petroleum substitute will in many cases be the recipient of the entitlements issuances, although the ERA may issue the entitlements to any refiner in the chain that is already a participant in the entitlements program for reasons of administrative simplicity.

(h) *Entitlement benefits.* Petroleum substitutes derived from oil shale, and petroleum substitutes having a gross heating value of 5.7 million Btu's or more per barrel, will receive entitlement benefits on the same per barrel basis as crude oil. For all other petroleum substitutes, entitlements will be granted to each barrel on the basis of the same ratio to a full entitlement as the gross per barrel heating value of the substitute bears to 5.7 million Btu's.

PROCESSING PROCEDURES

As the applicant, you must identify and notify all members of the production and distribution chain of the pendency of the application. If you are unable to identify all such parties, you should indicate this in the application. ERA reserves the right to make available to such parties copies of the application and supporting documentation (except to the extent that information contained therein may be withheld from the public under 5 U.S.C. 552(b)(4)), for the verification of any information submitted and the receipt of their views concerning the granting of the application. As the applicant, you must follow the formal filing procedures of subpart G of part 205 of title 10 of the Code of Federal Regulations (10 CFR 205.90 et seq.), and the general filing requirements of 10 CFR 205.9. We recognize that some applicants may not have had any previous experience with Government regulations. Consequently, our Office of Fuels Regulation will, in addition to receiving the applications, render assistance to any small enterprises that need help in completing these filing requirements.

Applicants must submit two copies of the application, one (the "confidential" version) containing all relevant information, and the other (the "nonconfidential" version) deleting information claimed to be confidential and nondisclosable to the public under 5 U.S.C. 552(b)(4). ERA also may consult with other offices of the Department of Energy or other agencies within the Federal or State governments on certain aspects of the application. These consultations will provide ERA with a verification of the energy consumption and any potential environmental effects of the production process or the use of the substitute. ERA also reserves the right to make any additional consultations it deems necessary. Normally, the applicant will be advised of such consultations.

7. DECISIONS AND ORDERS

All decisions and orders will be issued by the Assistant Administrator for Fuels Regulation. All decisions and orders will set forth the relevant facts, the criteria applied, and the decision made, together with a concise statement of the analysis used in reaching the decision. The order shall identify the recipient of the entitlement benefits (if granted) and shall specify the manner in which the amount of the entitlements will be determined.

A decision and order issued under this program is appealable to the Office of Hearings and Appeals in accordance with the procedures set forth in 10 CFR 205.97 and 205.100 et seq.

ECONOMIC REGULATORY ADMINISTRATION
Washington, D.C. 20461
Domestic Crude Oil Entitlements Program
APPLICATION FOR PETROLEUM SUBSTITUTES
ERA-83

1. IDENTIFICATION OF APPLICANT

A. Applicant

NAME_____

ADDRESS_____

(STREET, P.O. BOX)

_____

(CITY, STATE, ZIP CODE)

B. Person to Contact

NAME_____ PHONE #_____

C. Type of Applicant

(Check one)

[ ] INDIVIDUAL [ ] GROUP

[ ] PARENT COMPANY [ ] SUBSIDIARY COMPANY

[ ] OTHER _____
(Describe)

D. Parent Company Name and Address (If Applicant is Subsidiary)

NAME_____

ADDRESS_____

(STREET, P.O. Box)

_____

(CITY, STATE, ZIP CODE)

2. DESCRIPTION

A. Source of Petroleum Substitute

(Check one or more)

[ ] BIOMASS [ ] OIL SHALE [ ] TAR SANDS

[ ] COAL [ ] SOLID WASTE

B. Is source of petroleum substitute domestic?

(Check one)

[ ] YES _____
Describe the Source and Location

[ ] NO

C. Is petroleum substitute used in the U.S. as:

(Check one or more)

[ ] Refinery Feedstock

[ ] Blending Feedstock

[ ] Directly as Fuel in Refinery

[ ] Directly as Fuel not in Refinery (Describe)

D. Nature of Applicant

(Check one or more)

[ ] Consumer

[ ] Marketer

[ ] Producer of the Petroleum Substitute

E. Description of Production and Distribution Chain

Describe on an attached sheet the production and distribution chain for the petroleum substitute including the raw material used in the process, the end product produced, and the firms involved at each step in the chain.

3. Facility and Process Description

A. Facility

[ ] Proposed [ ] Existing [ ] Under Construction

B. Location of Facility _____
(NAME OF PLANT)

_____
(STREET)

_____
(CITY, STATE, ZIP CODE)

Capacity_____ _____/DAY
(VOLUME) (UNITS)

C. If proposed or under construction enter the date when production will commence:

_____
(YEAR/MONTH/DAY)

D. Narrative Description of Process
(See instructions for content of description)

ECONOMIC REGULATORY ADMINISTRATION, DOMESTIC CRUDE OIL ENTITLEMENTS PROGRAM, APPLICATION FOR PETROLEUM SUBSTITUTES: ERA-83 GENERAL INSTRUCTIONS

I. PURPOSE

This form is designed to provide the data necessary for a case-by-case review of synthetic liquid fuels to determine their eligibility for entitlement benefits and designation as a petroleum substitute.

II. WHO MAY SUBMIT

This form may be completed and filed by any person, group, firm, or corporate entity which desires designation as a producer of a petroleum substitute. Marketers or consumers may apply if a waiver of the benefits is given by the producer to the marketer or consumer. The petroleum substitute must be derived from domestic biomass, coal, oil shale, solid waste, or tar sands.

III. WHERE TO SUBMIT

A person or firm must submit this form and any attachments which may be required to:

Economic Regulatory Administration, Fuels Regulation, Petroleum Substitutes, P.O. Box 19326, Washington, D.C. 20036.

IV. WHEN TO SUBMIT

This form may be submitted during or in anticipation of the consumption, production, or marketing of a petroleum substitute.

V. SPECIFIC INSTRUCTIONS

Item No. 1. Identification of Applicant

(A) In item 1(A), enter the name of the applicant and complete address including ZIP code.

(B) In item 1(B), enter the name and telephone number, including area code, of the person to be contacted for inquiries regarding this application.

(C) In item 1(C), check one of the boxes to indicate type of application being filed (individual, group, parent company, or subsidiary). If the applicant is not an individual, group, parent, company, or subsidiary, check "other" and enter a one line description.

(D) In item 1(D), enter the name and address of the parent company if applicable.

Item No. 2. Description

(A) In item 2(A), indicate the raw material(s) used in production of the petroleum substitute.

(B) In item 2(B), indicate if the raw material source for the petroleum substitute is domestic (YES/NO). If no, the petroleum substitute is not eligible for entitlement benefits, and you should not submit this form.

(C) In item 2(C), check the box(es) that describe(s) the use(s) of the petroleum substitute.

(D) In item 2(D), check the box(es) which indicates the applicant's function(s) in the production/distribution chain for the petroleum substitute.

(E) In item 2(E), on an attached sheet give a detailed description of the production and distribution chain for the petroleum substitute.

Item No. 3. Facility and Process Description

This section is used to describe the facility and process used in the production of the petroleum substitute.

(A) In item 3(A), check the box that best indicates the status of the facility.

(B) In item 3(B), enter the address including ZIP code for the existing or proposed facility.

(C) In item 3(C), if the facility is proposed or under construction, enter the estimated date that the facility will begin to produce the petroleum substitute.

(D) In item 3(D), describe in detail the production process for the petroleum substitute and include a discussion and/or table of figures relating the following factors:

1. Energy considerations:

a. Energy requirements for entire facility (in Btu's per day).

b. Number of barrels of petroleum substitute produced per day.

c. Gross heating value (GHV) or Btu content per barrel of petroleum substitute produced.

d. Indicate all fuels which are directly used in the production of the petroleum substitute. Show these by type and volume together with a comparison of the Btu content of these fuels with the substitute.

e. Justify why this process is considered to produce a "higher-valued fuel."

2. Petroleum substitution:

a. Crude oil or petroleum products to be replaced by the substitute.

b. Uses to be displaced.

c. Volumes of petroleum to be displaced.

d. Volumes of substitute to be used in lieu of petroleum.

[FR Doc. 78-24597 Filed 8-30-78; 8:45 am]

[3128-01]

[10 CFR Parts 211 and 212]

EMERGENCY STANDBY MANDATORY CRUDE OIL AND REFINERY YIELD PROGRAMS

Further Notice of Public Hearing and Solicitation of Additional Comment

AGENCY: Economic Regulatory Administration.

ACTION: Notice of solicitation of additional comments and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the solicitation of additional comments and of a public hearing on the proposed emergency standby mandatory crude oil and refinery yield control programs, published for comment on February 15, 1978, which would become operative in the event of a significant crude oil supply interruption. The specific issue on which comments are sought is whether crude oil should be allocated to product importers for processing for their account to help alleviate a critical product shortage in the region or regions served by the importers.

DATES: Comments by September 29, 1978, 4:30 p.m.; requests to speak by September 13, 1978, 9:30 a.m.

HEARING DATE: September 26, 1978, 9:30 a.m.

ADDRESS: All comments to: Public Hearing Management, Room 2313, Department of Energy, Box VC, 2000 M Street NW., Washington, D.C. 20461.

REQUESTS TO SPEAK: Attention: Public Hearing Management, Room 2313, Department of Energy, Box VC, 2000 M Street NW., Washington, D.C. 20461.

HEARING LOCATION: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214B, 2000 M Street NW., Washington, D.C. 20461, 202-254-5201.

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

Sabina Cooper (Office of General Counsel), Department of Energy, Room 7134, 12th and Pennslyvania Avenue NW., Washington, D.C. 20461, 202-566-2454.

Robert Bidwell (Crude Oil Allocation), Economic Regulatory Administration, Room 6128-P, 2000 M Street NW., Washington, D.C. 20461, 202-254-9707.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Specific comments requested.
III. Comment procedures.

I. BACKGROUND

Under the proposed emergency standby mandatory crude oil and refinery yield programs issued in a notice of proposed rulemaking and public hearing on February 10, 1978 (43 FR 6611, February 15, 1978), the Administrator of ERA would be authorized to allocate crude oil to a firm that is not a U.S. refiner but has historically been engaged in the business of importing a petroleum product, provided that a critical shortage of that product has been determined to exist and that the shortage would be alleviated by such action. Product importers include importers of record who imported a refined petroleum product or residual fuel oil during a specified base period, but do not include refiners.

As proposed, the rule would require the importer to have the crude oil refined in a U.S. refinery, unless he is unable to negotiate a processing agreement with a domestic refiner. If the importer were unsuccessful in negotiating such an agreement, it would then have the oil processed for its ac-

count in a non-U.S. refinery, so long as the product that is refined from the crude oil is imported into the area of critical shortage on a barrel-for-barrel basis.

The purpose of this provision is to provide a mechanism to maintain equitable levels of supply of residual fuel oil to the east coast should crude oil imports be severely curtailed. Moreover, in the event of a disproportionately larger interruption in the supply of crude oil to Caribbean refineries than to U.S. refineries, crude oil could be allocated to product importers for refining in non-U.S. refineries in order not to disrupt domestic product production. By ultimately allocating crude oil to historical product importers, if domestic refiners were unable to produce the necessary volume of residual fuel oil because of economic or technical limitations, this provision would permit use of the high residual yield refineries in the Caribbean that under normal conditions supply a large percentage of total east coast demand.

II. Specific Comments Requested

We request comments on the general issue of whether crude oil should be allocated to a product importer for processing for the account of that importer. We also request comments on the following specific issues:

1. Under what conditions should a product be declared to be in critical short supply so as to result in allocations to product importers.

2. By what methods should we determine (a) the cost-efficiency of allocating crude oil to product importers as opposed to refiners, and (b) the quantity of crude oil to be allocated to product importers.

3. What standards should apply in determining that an importer has been unsuccessful in negotiating a processing agreement with a U.S. refiner before an importer may arrange to have the crude oil processed for its account in a non-U.S. refinery.

4. What price and margin controls should apply where crude oil has been refined in a non-U.S. refinery and product imported back into the U.S.

5. What legal restraints may be imposed to assure that crude oil allocated to a product importer for processing in a non-U.S. refinery will be returned to the U.S. on a barrel-for-barrel basis in the region of critical shortage served by that product importer.

6. What is the amount of residual fuel oil that ERA should require to be imported back into the U.S. with respect to a particular volume of crude oil allocated.

7. What specific time frame should apply for the processing of crude oil for the account of product importers and what specific rules should govern as to the location of the non-U.S. refineries utilized by those importers.

III. Comment Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the issues set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Crude Oil Allocation-Standby Regulations", Box VC. Fifteen copies should be submitted. Comments should be addressed to Public Hearing Management, Room 2313, Department of Energy, Box VC, 2000 M Street NW., Washington, D.C. 20461. All comments received by the ERA will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

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

B. Public Hearing

1. *Request Procedure.* The time and place for the hearing is indicated in the "Hearing Date" and "Hearing Location" sections of this notice. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation. If so, you should be prepared to describe the interest concerned, if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified by the ERA before 4:30 p.m., September 18, 1978, and you must send 100 copies of your statement to the address to which comments are to be sent by September 25, 1978.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing (in the event there are more requests to be heard than time allows), to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based upon the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked by those conducting the hearing, and you may also ask questions of any person making a statement at the hearing, following any questions posed by the hearing panel. The presiding officer will determine whether the question is relevant, and whether time limitations permit it to be answered.

At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

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

Issued in Washington, D.C. on August 25, 1978.

Douglas G. Robinson,
Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 78-24624 Filed 8-30-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z; Docket No. R-0177]

TRUTH IN LENDING

Interest Reduction on Time Deposits Used to Secure Loans

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed interpretation.

SUMMARY: The proposed interpretation provides that an interest reduction on a time deposit used to secure a loan must be disclosed for Truth in Lending purposes. It would not, however, require disclosure of the amount of the interest reduction as a component of the finance charge or in other items on which the finance charge has a bearing—such as the annual percentage rate, schedule of payments, and total of payments. The interpretation would apply only in cases where a creditor must reduce the interest rate on the time deposit in order to comply with both a State loan rate ceiling and a percentage differential required by Federal or State law as to loans secured by time deposits. If a lending institution could maintain the percentage differential by increasing the interest charged on the loan, but chose instead to reduce the interest payable on the time deposit, the amount of the interest forfeited by the customer would have to be included in the finance charge and taken into account in other applicable Truth in Lending disclosures.

DATE: Comment must be received on or before September 29, 1978.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Dolores S. Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

SUPPLEMENTARY INFORMATION: (1) Regulation Z requires that "all charges, payable directly or indirectly by the customer, and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the customer, seller, or any other person on behalf of the customer" be included in the finance charge.

An interpretation has been requested as to whether this requirement applies to interest that is forfeited on a time deposit used by the depositor to secure a loan. Under regulations of the Federal Reserve Board (regulation Q) and the other financial regulatory agencies, loans secured by time deposits are subject to a requirement that the lending institution maintain a 1 percent differential in the interest rates. That is, the lending institution must charge the customer an interest rate on the loan that is not less than 1 percent in excess of the interest rate being paid to the customer on the time deposit. The differential is intended to prevent evasion of regulations which impose a mandatory penalty on depositors for early withdrawal of a time deposit, by discouraging loans that enable a depositor indirectly to obtain use of the funds before maturity.

In some States the maximum rate of interest allowed on certain types of loans is fixed by statute at a rate that is less than 1 percent in excess of the rate on the time deposit. This means that in order to maintain the differential, a lending institution must reduce the interest rate on the time deposit for the duration of the loan. For example, if the maximum rate is 8.50 percent for loans and the interst on the time deposit is 7.75 percent, the lender will pay the borrower a reduced rate of 7.50 percent on the time deposit. A lender that fails to maintain the differential will be in violation of Federal, and perhaps State, law.

The proposed interpretation would aply only in those cases where the combination of a loan rate ceiling and a differential requirement makes an interest reduction necessary. Where the interest rate ceiling on a loan is fixed by State law at a level that is 1 percent or more in excess of the rate on the time deposit, a lending institution can comply with the differential requirement without reducing the interest on the time deposit. If a lender could permissibly charge an increased rate on the loan, but chose instead to reduce the rate on the time deposit, the lender would have to include the lost interest in the finance charge, as well as in all other applicable regulation Z disclosures.

(2) To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 29, 1978, and should include the docket No. R-0177. The material submitted will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information (12 CFR 261.6(a)).

(3) Pursuant to the authority granted in 15 U.S.C. § 1064 (1968), the Board proposes to revise regulation Z, 12 CFR Part 226, by adding the following interpretation.

§ 226.408 Interest reduction on time deposits used to secure loans.

Section 226.4(a) requires that the amount of the finance charge in a credit transaction be determined as the sum of "all charges, payable directly or indirectly by the customer, and imposed directly or indirectly by the creditor as an incident to or as a condtion of the extension of credit."

The question is whether this requirement applies to interest forfeited by a depositor on a time deposit because of a percentage differential mandated by Federal or State laws, or both, for the loans secured by such deposits. In some States, the interest rate ceiling on loans secured by time deposits is such that the lender can comply with the differential requirement only by reducing the interest rate on the time deposit for the duration of the loan. For example, where the ceiling for loans is fixed at 8.50 percent and the interest rate on the time deposit is 7.75 percent, a reduction on the time deposit to 7.50 percent will be necessary to comply with the present 1 percent differential requirement.

It can be argued that in these cases any interest reduction results from a combination of the fixed loan interest rate and the mandatory percentage differential and, thus, is not a condition of the transaction imposed by the creditor. The Board concludes, however, that the interest forfeiture is so directly related to the loan transaction that it must be deemed to constitute a finance charge. To ignore the forfeiture altogether would result in an incomplete and misleading disclosure for purposes of Truth in Lending.

Although the Board concludes that the lost interest is a finance charge, a requirement that creditors disclose the amount as part of the finance charge, in a form that would be meaningful to the consumer, raises certain practical problems. These problems occur, in part, because of the fact that the consumer will not be paying out the lost interest, but rather will be foregoing its receipt. To require disclosure of the lost interest as a part of the finance charge would therefore require disclosing this and other amounts (such as the amount of scheduled payments and the total of payments) in hypothetical terms.

The Board believes the purposes of Truth in Lending will better be satisfied by a disclosure of the interest forfeiture as a credit term on the Truth in Lending disclosure statement. A creditor may satisfy this requirement, for example, by dislosing that "The interest rate on the time deposit offered as security for this loan will be reduced from 7.75 percent to 7.50 percent for the duration of this loan."

This exception, which permits a lender to omit the amount of the interest forfeiture in computing the finance charge and in other disclosures that relate in some way to the finance charge, is available only if the interest reduction results from the need to comply with a loan rate ceiling in combination with a differential requirement. If a lending institution could maintain the percentage differential by increasing the interest rate charged on the loan, but chose instead to reduce the interest rate payable to the depositor, any lost interest would represent a condition of the transaction imposed by the creditor. In these latter instances the amount of the interest forfeited by the consumer must be included in the finance charge and taken into account in other applicable disclosures.

By order of the Board of Governors, August 23, 1978.

THEODORE A. ALLISON,
Secretary of the Board.

[FR Doc. 78-24601 Filed 8-30-78; 8:45 am]

[1505-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 761 0074]

McDONNELL DOUGLAS CORP., LOCKHEED CORP., AND BOEING CO.

Consent Agreements With Analysis To Aid Public Comment

Correction

In FR Doc. 78-23385, appearing at page 36973 in the issue of Monday, August 21, 1978, the following corrections should be made:

1. On page 36974, first column, the third and fourth lines of paragraph 3.(c) should read, "the validity of the order en-[tered]".

2. Also on page 36794, second column, between the third and fourth words in the ninth line of paragraph 6., insert the words, "corresponding in form and substance with a draft of complaint".

[6750-01]

[16 CFR Part 451]

ADVERTISING FOR OVER-THE-COUNTER ANTACIDS

Final Notice Concerning Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Final notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission, on April 6, 1976, published in the FEDERAL REGISTER the initial notice of a rulemaking proceeding to determine whether some or all of the warning information required in labeling for OTC antacid product should be disclosed in advertising for those products. This final notice sets out the scheduled date for commencement of oral hearings and invites continued written comments. It also gives prospective witnesses and other interested parties instructions concerning the filing of statements and other procedural requirements.

DATES: Hearings will commence at 9:30 a.m. on Monday, December 4, 1978, in Washington, D.C. Written comments due by October 19, 1978. Oral statements or outlines and exhibits due by November 10, 1978. Notice of desire to question witnesses due by October 2, 1978.

ADDRESS: Send comments and notice of desire to examine witnesses to James P. Greenan, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, 202-724-1045.

FOR FURTHER INFORMATION CONTACT:

Joel Brewer, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-724-1530.

SUPPLEMENTAL INFORMATION: On April 6, 1976, the Commission published in the FEDERAL REGISTER (41 FR 14534) an initial notice of rulemaking concerning advertising for over-the-counter antacids, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41 et seq., the provisions of part 1, subpart B of the Commission's procedures and rules of practice (rules of practice) 16 CFR 1.7-1.20, and section 553 of subchapter II, chapter 5, title 5 of the U.S. Code (administrative procedure).

Under the same authority and more specifically under § 1.12 of the rules of practice, the undersigned duly appointed Presiding Officer for this proceeding gives Final Notice of proposed rulemaking. The contents of the Initial Notice described above are incorporated herein by reference. The Commission's staff has written a report supporting the initiation of a rulemaking proceeding. The report has been placed in the public record and can be studied by interested persons in Room 130, Public Reference Branch, Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

NOTICE TO INTERESTED PERSONS

SECTION A. WRITTEN COMMENTS

Please continue to send data, views or arguments of any issue of fact, law or policy that may have some bearing on the proposed rulemaking. You may comment on any aspect of the proposed rulemaking. Any earlier comments you may have sent have been placed in the public record and need not be sent again.

Send your comments to James P. Greenan, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, no later than October 19, 1978. Mark them "Antacid Comments" for prompt identification and consideration. You are requested to clearly identify the questions contained in the initial notice of rulemaking or set forth in this notice to which your comments are directed. If possible, send five copies.

SECTION B. PUBLIC HEARINGS: DATE AND LOCATION

Public hearings on the proposed rulemaking will be held in Washington, D.C. Hearings will start on December 4, 1978, at 9:30 a.m. in Room 532, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW.

If more hearings are needed, the dates and places of those scheduled will be published later in the FEDERAL REGISTER.

SECTION C. INSTRUCTIONS FOR WITNESSES

1. *Advance notice.* If you want to testify at the hearings, please inform the presiding officer immediately. This will enable us to assist you in complying with the requirements set forth below.

2. *Notification and filing requirements.* If you want to testify during the scheduled public hearings, please inform the presiding officer. You must notify him of your desire to testify and file with him your word-for-word statement of testimony no later than November 10, 1978.

3. *Exceptions.* If you do not intend to deliver a prepared word-for-word statement at the hearings, you must file a comprehensive outline of what you expect to say with the presiding officer. Such an outline must list each fact, observation, opinion, and conclusion you are going to discuss and recite the basis for each such observation, opinion, and conclusion. The outline must be filed with the presiding officer no later than November 10, 1978, as specified in paragraph 2. If the outline you file is not sufficiently detailed or factual, the presiding officer may require you to file a complete word-for-word statement before you testify.

4. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they are to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period (see section A) so they can be studied by other interested persons. If such documents are unavailable to you during this period, file them as soon as you can but not later than the November 3, 1978 deadline for filing statements or outlines. Mark each of the documents with your name, and number them in sequence, e.g., Jones exhibit 1. The presiding officer has the power to refuse to accept for the public record any hearing exhibits that are not furnished by the deadline.

5. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement or outline a curriculum vitae, biographical sketch, resume or summary of your professional background, and a bibliography of your publications. It would be helpful if you would also include documentations for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon or chiefly concerned with

one or two major scientific works, copies should be furnished. The remaining citations to other works can be accomplished by using footnotes in your statement referring to those works.

6. *Results of surveys and other research studies.* If in your testimony you will present the results of a survey or other research study, you must also present as an exhibit or exhibits in compliance with paragraph 4 above the following:

(a) A complete report of the survey or other research study and the information and docments listed in (b) through (e) if they are not included in that report.

(b) A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

(c) Copies of all completed questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

(d) A description of the methodology used in conducting the survey or other research study including the selection and instructions to interviewers, introductory remarks by interviewers to repondents, and a sample questionnaire or other data collection instrument.

(e) A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested parties may wish to examine the questionnaires, data collection form, and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon the request of the presiding officer. The presiding officer will then be in a position to permit their use by other interested parties or their counsel.

7. *Identification, number of copies, and inspection.* To assure prompt consideration, all materials filed by prospective witnesses pursuant to instructions contained in paragraphs 2-6 of this section should be identified as "antacids statement" ("and exhibits", if appropriate), and submitted in five copies when feasible and not burdensome.

Copies of all materials filed by witnesses will be made available for examination in Public Reference Room 130, Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

8. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearance and that of other witnesses in an orderly manner. Other interested parties must have your expected testimony and supporting documents available for study before the hearings so they can decide whether to question you or file contradictory statements (rebuttals). If you do not comply with all of the requirements, the presiding officer has the power to refuse to let you testify.

9. *Content of testimony.* In your testimony you can discuss any questions of fact, law, or policy concerning the proposed rulemaking. You do not have to limit your testimony by responding only to the questions set forth in the Commission's initial notice or in section E herein; but if it does bear on these matters, you may be questioned by the presiding officer or other persons, and there may be rebuttals. Also, the presiding officer may question you directly or let others question you about other matters. You are not required to respond to any question outside the scope of your written statement or outline. However, if such questions are permitted, you may respond if you feel you are prepared and have something to contribute.

10. *Procedures and time limits.* The hearings will be informal and courtroom rules of evidence will not apply. You will not be put under oath unless the presiding officer so requires. Ordinarily, you will have about 20 minutes to give your testimony. If you need more than 20 minutes, submit your request for extra time when you file your word-for-word statement of testimony or outline. The presiding officer may set other reasonable time limits and may also allow extra time for questioning. If you want to discuss more than can be presented in the time alloted to you, include all of the material in your word-for-word statement. They you may summarize the statement in your testimony, and the entire statement will be introduced into the record as an exhibit. The presiding officer has the authority to limit the number of witnesses to be heard if the orderly conduct of the proceeding so requires.

SECTION D. DESIGNATED ISSUES

The presiding officer has determined that no issues have been identified in this proceeding which require designation for consideration in accordance with § 1.13(d) (5) and (6) of the rules of practice.

The presiding officer may at any time on his own motion or pursuant to a written petition by an interested person designate issues for consideration in accordance with § 1.13(d) (5) and (6) of the rules of practice. In like fashion, issues so designated may be modified by the presiding officer on his own motion or pursuant to a written petition by an interested person. Petitions requesting the designation of an issue will not be considered unless good cause is shown why such issue was not proposed during the time specified in the notice of extension of time to propose designated issues of fact issued by Presiding Officer Raymond L. Rhine (41 FR 24724, June 18, 1976). If such was proposed during the specified period and not accepted, good cause must be shown why it should now be designated.

SECTION E. QUESTIONS

While interested persons are invited to address any issues of fact, law, or policy which they feel may have bearing upon the proposed rulemaking, listed below are several specific questions which are posed in order to facilitate the development of views and comments from all interested parties. These questions are intended to supplement those set forth in the Commission's initial notice of rulemaking. Responses to these questions will assist the Commission in considering all reasonable alternatives bearing upon the proposed rulemaking.

In its statement of reasons for this rulemaking proceeding the Commission referred to the establishment by the Food and Drug Administration of procedures for the safe classification of OTC drugs as "generally recognized as safe and effective" and not "misbranded." The Commission, in its initial notice of rulemaking, stated this proceeding was initiated "to determine whether some or all of the warning information required in labeling for OTC antacid products should be disclosed in advertising for those products. The Commission did not fully define the term "warning" in its initial notice. However, the Commission indicated that all warning information required in labeling OTC antacid products is included within the scope of this rulemaking proceeding.

Accordingly, in the following questions, the term "warning" refers to the FDA antacid labeling requirements set forth in (a) to (g) below:

(a) "Do not take more than (maximum recommended daily dosage, broken down by age groups if appropriate, expressed in units such as tablets or teaspoonfuls) in a 24-hour period, or use the maximum dosage of this product for more than 2 weeks, except under the advice and supervision of a physician."

(b) For products which cause constipation in 5 percent or more of persons who take the maximum recommended dosage: "May cause constipation."

(c) For products which cause laxation in 5 percent or more persons who take the maximum recommended dosage: "May have laxative effect."

(d) For products containing more than 50 mEq. of magnesium in the recommended daily dosage: "Do not use this product except under the advice and supervision of a physician if you have kidney disease."

(e) For products containing more than 5 mEq. sodium in the maximum recommended daily dose: "Do not use this product except under the advice and supervision of a physician if you are on a sodium restricted diet."

(f) For the products containing more than 25 mEq. potassium in the maximum recommended daily dose: "Do not use this product except under the advice and supervision of a physician if you have kidney disease."

(g) For products containing more than 5 gm. per day lactose in a maximum daily dosage: "Do not use this product except under advice and supervision of a physician if you are allergic to milk or milk products."

(h) Drug interaction precautions. The labeling of the product contains the following drug interaction precautions, under the heading: "Drug Interaction Precautions": * * * (i) If the product is an aluminum containing antacid: "Do not take this product if you are presently taking a prescription antibiotic drug containing any form of tetracycline."

(i) Statements of sodium containing ingredients. The labeling of the product contains the sodium content per dosage unit (e.g., tablet, teaspoonful) if it is 0.2 mEq. (5 mg.) or higher.

(j) The labeling for all drugs contains the general warning: "Keep this and all drugs out of the reach of children." The labeling for all drugs used for oral administration shall also state: "In case of accidental overdose, seek professional assistance or contact a Poison Control Center immediately." The labeling for drugs administered rectally or used topically shall state: "In case of accidental ingestion, seek professional assistance or contact a Poison Control Center immediately."

In addition, in the following questions, the terms "warning" or "warning information" refer to the information content of the foregoing FDA antacid label requirements, without necessarily meaning the information in the very words the Food and Drug Administration has approved for labeling.

1. With respect to the warnings which have been developed or may be developed by the Food and Drug Administration in its over-the-counter antacid drug review, is it material to significant numbers of consumers:

(a) That FDA has found, or will find, such warnings to be applicable to particular over-the-counter drugs, or

(b) That particular over-the-counter drugs bear, or will bear, such warnings in their labeling?

2. With respect to each warning:

(a) Are there significant numbers of consumers or potential consumers of antacids to whom such warnings apply?

(b) What are the potential consequences of using a product which bears a warning to those consumers to whom each such warning applies?

(c) Are there a significant number of consumers to whom the warnings are of material significance who are not presently aware of the warnings?

(d) Would a disclosure in advertising be likely to make a significant number of the consumers described in question 2(c) above aware of the warning information?

3. Are there criteria for determining whether the warning information developed by FDA should be included in advertising?

4. Can a general disclosure for advertising be developed which will result in consumers becoming aware of the warnings on particular antacid products? If so, can criteria be developed which will measure whether alternative formulations of this disclosure will be as effective as a general disclosure in communicating to consumers? Can criteria be developed to determine what elements general disclosure must contain in order to induce consumers to familiarize themselves with the warnings on particular antacid products?

5. Can specific disclosures for advertising be developed which will adequately communicate the warnings to a significant number of consumers to whom the warnings apply? If so, can criteria be developed which will measure whether alternative formulations of specifc dislosures are as effective as the specific disclosures themselves in commuicating information to consumers?

6. If specific disclosures do appear in advertisements:

(a) What are the possible effects, if any, of the disclosures on those persons to whom the warnings do not apply?

(b) Would the inclusion in advertising of specific disclosures describing some of the warnings reduce consumer awareness of other warnings or additional information relating to safe use which is also required in labeling; if so, could additional disclosure in advertising (e.g., "See label for additional warnings," or "Follow label directions") prevent such reduction in awareness?

(c) Would a significant number of consumers be likely to improperly conclude that specific disclosure of a warning for a particular antacid also has application to other antacids or other OTC drugs which do not in fact bear that warning?

(d) What would be the effect, if any, of such warnings in advertising upon the general ability of advertisers to communicate and in particular, upon their ability to communicate the therapeutic effects of their products?

7. What would be the economic effects on consumers, producers, and advertisers of antacid products and upon small businesses if disclosures of information based on the subject matter of this rulemaking proceeding are adopted by the Commission?

SECTION F. NOTIFICATION OF INTEREST

Interested persons who wish to avail themselves of the opportunity to question witnesses must, by October 2, 1978, notify the presiding officer of their position with respect to the proposed rulemaking as well as each individual section and paragraph set forth in the Commission's initial notice of rulemaking (41 FR 14534, April 6, 1976), and as to each of the questions set forth in this notice. If you have no interest or position as to any particular section or paragraph, merely indicate, "No interest." This notification must be in sufficient detail to enable the presiding officer to identify groups with the same or similar interest respecting the proposed rulemaking and the presiding officer may require the submission of additional information from any applicant whose notification is inadequate. Failure to file an adequate notification in sufficient detail may result in the applicant being refused an opportunity to question witnesses.

Before the hearings commence, the presiding officer will identify groups with the same or similar interests in the proceeding. Such groups will be required to select a single representative for the purpose of questioning witnesses and, if unable to make this selection, the presiding officer may select a representative of each group. The presiding officer will notify all interested persons of the identity of the group representatives at the earliest practicable time.

If you are a member of such a group, you must make a good faith effort to agree on a representative. If you cannot agree and you have a position with respect to the proposed rulemaking or one or more of the individual sections or paragraphs of the Commission's initial notice that will not be adequately presented by the group representative, notify the presiding officer. He may allow you to question witnesses or have questioning conducted for you, or to offer rebuttals.

Inasmuch as the presiding officer has determined that no issues have been identified which require designation for consideration in accordance with § 1.13(d) (5) and (6) of the rules of practice, examination, including cross-examination, of oral presentations and the presentation of rebuttal submissions is not required in this proceeding. However, in order to permit adequate exposition of the views, opinions, and arguments of witnesses making oral presentations, particularly as they may bear upon the questions posed by the Commission in its initial notice and those in section E of this notice, the presiding officer may examine such witnesses or allow questioning to be conducted by group representatives. Such questioning as may be permitted to be conducted by group representatives will be confined in duration under limitations to be established by the presiding officer.

Issued: August 30, 1978.

JAMES P. GREEMAN,
Presiding Officer.

[FR Doc. 78-24602 Filed 8-30-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

[22 CFR Part 203]

REGISTRATION OF AGENCIES FOR VOLUNTARY FOREIGN AID

Proposed Revision in Requirements

AGENCY: Agency for International Development (AID)

ACTION: Proposed rules.

SUMMARY: These proposed rules would revise AID regulations to reflect recent changes in the requirements for the registration of U.S. voluntary agencies with the Advisory Committee on Voluntary Foreign Aid (herein after referred to as the Committee); would establish new precedures for the registration of foreign voluntary agencies with the Committee; establish new procedures regarding denials of registration by the Committee and reconsideration of denials; would modify procedures for the issuance of registration certificates, the scope of the Committee's authority to waive the registration requirements established in regulation 3; and would eliminate from regulation 3 those procedures relating to approval of private and voluntary organization programs, projects and services by the Committee for the purpose of receiving certain forms of assistance from AID.

DATE: Comments on these proposed rules must be received on or before October 31, 1978. Comments should be submitted to Mr. Robert S. McClusky, Executive Director, Advisory Committee on Voluntary Foreign Aid, Office of Private and Voluntary Cooperation, Room 3489, Bureau for Private and Development Cooperation, Agency for International Development, Department of State, Washington, D.C. 20523.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert S. McClusky, at the above address or by phone at 202-632-0990.

SUPPLEMENTARY INFORMATION: Under provisions of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 et seq. and the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), 7 U.S.C. 1691 et seq., AID is authorized to provide financial and commodity support for the foreign assistance activities of voluntary nonprofit agencies registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid (the Committee). AID Regulation 3, 22 CFR Part 203, established the procedures and requirements for registration with the Committee. These procedures were last published in their entirety in the FEDERAL REGISTER on February 11, 1976 (41 FR 6066).

In response to congressional recommendations that AID establish a registry of private and voluntary organizations eligible for AID support, AID began a review in 1977 of the requirements for registration of U.S. private voluntary organizations contained in regulation 3. Proposed revisions were discussed in several public meetings of the Advisory Committee. In addition, amendments to the Foreign Assistance Act and Pub. L. 480, effective October 1, 1977, extended eligibility for AID support on a reimbursable and advance-of-funds basis and for receipt of food commodities under title II of Pub. L. 480 to foreign nonprofit voluntary agencies registered with the Committee. For the purpose of implementing these amendments, AID was required to issue regulations governing registration of foreign nonprofit voluntary agencies with the Committee.

The proposed regulations below reflect changes to the registration requirements for U.S. private voluntary organizations; and establish new procedures for registration of foreign private voluntary organizations based upon a certification of eligibility from appropriate mission or AID/Washington officials. The revised registration requirements for U.S. private voluntary organizations have been in use on a interim basis for the purpose of determining eligibility for funding in fiscal year 1978 and the foreign private voluntary organization procedures are being used on an interim basis for the determination of eligibility to seek assistance made available to foreign private voluntary organizations. The remaining changes are to the procedures and functions of the Committee itself. The principal changes in the regulation are as follows:

1. *Applicability of the regulation.* Section 203.1 has been revised to reflect that the Committee will maintain two registries, one of U.S. private voluntary organizations and the other of foreign private voluntary organizations. A sentence has been added to indicate that universities, colleges, or other accredited degree-awarding institutions of learning and exclusively research or scientific organizations are not considered private voluntary organizations and accordingly are not required to register with the Committee. Section 203.1(b) requires that private volunteer organizations organized under the laws of the United States and holding IRS tax exemption meet the requirements for registration of U.S. private voluntary organizations in §§ 203.2 through 203.6 rather than those for foreign private voluntary organizations in § 203.7.

2. *Application for registration.* The proposed § 203.2 makes minor changes to the present § 203.2, redesignates it as subsection (a), and adds a new subsection (b) specifying in regulation 3 the documentation which must be submitted to the Committee in support of an application for registration. These documentary requirements were previously contained in the Committee's interim registration guidelines which were provided to prospective applicants for registration. The documentation required is essentially the same as previously required with the following significant changes: New organizations (organizations which have been incorporated less than a year) are permitted to submit an independent certified accountant's statement that an appropriate accounting and financial reporting system has been installed that would enable the organization to have an audit conducted at the end of 12 months in accordance with the AICPA industry audit guidelines applicable for that organization, along with an unaudited financial statement covering the period between incorporation and application for registration; a list of the top five principal headquarters positions determined by salary level and the pay and allowances of these positions must be provided; a list of the top salary levels, perquisites, and allowances of the organizations country director positions in each country in which it has such representation is required; and a copy of the most recent income tax return of the organization (IRS form 990 or equivalent)

must be submitted or the inability to do so explained.

3. *Conditions for registration for U.S. private voluntary organizations.* Section 203.3 Conditions of Registration, have been revised as follows: Condition (1) has been revised to make it clear that the applicant must demonstrate that it is a legal entity organized under U.S. law.

Condition (2) has been redesignated as condition (6) and has been simplified. A new condition (2) has been added requiring the applicant to be a nongovernmental entity.

Condition (3) has been completely revised, with applicants required to demonstrate that they hold IRS tax exemption under one of several specified sections of the Internal Revenue Code. Nearly all organizations previously registered with the Committee fall within the enumerated sections. Condition (3) previously required applicants to demonstrate that IRS had authorized them to inform donors that contributions were tax deductible. The proposed changes were made in order to expand the registry to include private and voluntary organizations which, while tax exempt, do not solicit contributions from the general public for their activities.

Condition (4) has been revised to extend availability of registration not only to organizations which are currently conducting programs abroad but also those organizations demonstrating a commitment to foreign charitable and development efforts in the future, particularly new organizations in the process of startup for overseas development activities or established organizations beginning expansion of activities into foreign countries.

Condition (5) has been redesignated as condition (7). A new condition (5) requires the applicant to demonstrate that it has financial resources and management capability of sufficient substance to enable it to perform the services it proposes.

Section 203.3(b) of the present regulations is redesignated as § 203.3(d) in the proposed regulations with minor revisions and an annual reporting requirement is included. This reporting requirement was previously a part of the Committee's interim registration operational guidelines. The required documentation is much the same as previously required. A report of exports schedule C-200 and a representative sampling of the latest fundraising literature, however, are no longer required. An updated listing of top headquarters positions, compensation levels for country director positions, and a copy of the annual income tax return have been added as additional requirements.

New subsections (b) and (c) have been included in § 203.3 outlining the general standards to be used by the Committee in determining whether an organization conducts its programs in accordance with accepted ethical standards and obtains, expends, and distributes its funds without unreasonable cost for promotion, publicity, fundraising, and administration. These standards are intended as guides to the Committee in assessing the appropriateness of an organization's activities; each applicant's operations, however, are to be reviewed on a case-by-case basis with consideration given to all relevant circumstances. The standards indicated have been part of the Committee's interim registration operational guidelines since 1976. Under the proposed regulations, the Committee may develop its own standards and has indicated an interest in doing so in the near future.

4. *Certificate of registration.* Section 203.4 has been simplified and language added making it clear that an organization is not deemed registered with the Committee until the registration certificate is signed by the Chairman and issued to the organization. The Committee may reconsider and modify any registration action prior to issuance of the certificate.

5. *Denial of registration.* Reconsideration procedures have been added in a new § 203.5 providing an applicant denied registration the opportunity to seek reconsideration within 30 days after notification of a denial; after the expiration of this 30-day period or after a denial of a request for reconsideration, a new application must be provided to the Committee. While the Committee has been willing to reconsider denials in the past, specific procedures for denial and reconsideration have not been established.

6. *Approval of programs, projects, services.* The current § 203.5 has been deleted in its entirety. This section presently provides for program "approval" as part of applications for authorized subventions (ocean freight reimbursement, excess property, Pub. L. 480 food commodities) in furtherance of private voluntary organization programs and objectives. Many of these functions are presently performed by AID staff and the Committee's role in reviewing applications for specific types of assistance in connection with a specific program or project has diminished. It is anticipated that much of this section will be incorporated into AID Regulations 2 and 11 which deal with ocean freight reimbursement and Pub. L. 480 food programs. The Committee will continue to generally review, however, the programs and activities of applicants as part of the registration process.

7. *Registration of foreign private and voluntary organizations.* Sections 203.7 and 203.8 have been redesignated §§ 203.8 and 203.9, respectively, and a new § 203.7 added establishing procedures for the registration of foreign private voluntary organizations with the Committee. Because foreign private voluntary organizations are organized and operate under laws and regulations different from those in the United States, the new procedures provide for registration based upon a certification from the AID Mission Director in the country in which the organization is headquartered (or from another appropriate AID official in the case of regional or international private voluntary organizations) that the organization meets certain conditions of eligibility approved by the AID Administrator. These conditions, which have already been approved, are very similar to those for U.S. private voluntary organizations in the revised § 203.3. Certifying officials are permitted to deviate, however, from these requirements when their application would be inappropriate under local circumstances. The new procedures recognize that AID officials in the field are in the best position, in the first instance, to evaluate the appropriateness of foreign organizations for AID support.

8. *Waiver authority.* In addition to being redesignated as § 203.9, § 203.8 has been revised to limit the Committee's authority to waive provisions of regulation 3 to those provisions relating to the requirements for financial records prepared in accordance with AICPA or other applicable accounting guidelines if it finds that compliance would cause undue hardship to the organization and the organization otherwise meets the conditions of registration. The Administrator, AID, would retain the authority to waive provisions of regulation 3 when appropriate.

Because of the substantial revisions proposed, the proposed regulation 3 is printed below in its entirety.

PART 203—REGISTRATION OF AGENCIES FOR VOLUNTARY FOREIGN AID

Sec.
203.1 Purpose and function.
203.2 Application for registration.
203.3 Conditions of registration.
203.4 Certificates of registration.
203.5 Denial of registration; reconsideration.
203.6 Termination of registration.
203.7 Registration of foreign nonprofit voluntary organizations.
203.8 Access to records.
203.9 Waiver authority.

AUTHORITY: Sec. 621, 75 Stat. 424, as amended: 22 U.S.C. 2381; E.O. 10973, 30 FR. 1959–63 Comp.

§ 203.1 Purpose and function.

(a) To further public interest in the field of voluntary foreign aid and the activities; other than religious, of private and voluntary organizations engaged in or having the potential to be engaged in that field, the Advisory Committee on Voluntary Foreign Aid (referred to in this part as the Committee) is authorized and directed to establish and to maintain, pursuant to the rules set forth in this part, two registries of private and voluntary organizations (PVO's), one of U.S., the other of non-U.S. PVO's, qualified for voluntary accepting registration. The purpose of such registration is to enable the Committee (1) to facilitate cooperation between the Agency for International Development (referred to in this part as AID) and other agencies of Government and private and voluntary organizations in the field of foreign aid, (2) to determine which private and voluntary organizations are eligible to seek authorized U.S. Government subventions and grants, (3) to provide information on the identity, the types of activities conducted by and the financial condition of registrants, and (4) to provide advice and perform such other functions as may be necessary in furtherance of the purposes set forth in this section. For the purposes of this part, the term "private and voluntary organization" does not include universities, colleges, or other accredited degree-awarding institutions of learning; and organizations engaging exclusively in research or scientific activities.

(b) U.S. private and voluntary organizations will be registered in accordance with the provisions of §§ 203.2 through 203.6. Foreign private and voluntary organizations will be registered in accordance with the provisions of § 203.7 below. For the purposes of this subsection, an organization whose operations are primarily based in a less developed country but which is organized under the laws of the United States has acquired a certificate of exemption from taxation as a nonprofit organization under the U.S. Internal Revenue Code, is considered a U.S. PVO.

§ 203.2 Application for registration.

(a) Any U.S. private and voluntary organization engaging in or intending to engage in voluntary foreign aid operations, including but not limited to, services of relief, rehabilitation, disaster assistance, development assistance, welfare, training, and/or program support and coordination for such services, in the fields of health, education, population planning, nutrition, agriculture, industry, environment, ecology, refugee services, emigration, and resettlement, may voluntarily make application for registration to the Chairman, Advisory Committee, on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

(b) Each applicant for registration must submit evidence demonstrating that it saitsfies all the conditions set forth in section 203.3 below. An applicant seeking registration shall supply copies of the following documentation to the Committee with its letter of application:

(1) Its articles of incorporation, bylaws, constitution, or other relevant documents establishing its legal status;

(2) A copy of its IRS statement of tax exemption under the provisions of section 501(c)(3), 501(c)(4), 501(c)(5), or 501(c)(6), of the Internal Revenue Code;

(3) Its latest financial statement prepared in accordance with generally accepted accounting principles established by the American Institute of Certified Public Accountants (AICPA) industry audit guide for voluntary health and welfare organizations or other generally accepted accounting principles or audit guides applicable to the applicant if it is not a voluntary health and welfare organization. This statement must have been audited by an independent CPA in accordance with applicable guidelines.

New organizations (organizations which have been incorporated less than a year) must provide an independent certified public accountant's statement that an accounting and financial reporting system consistent with the AICPA industry audit guide for voluntary health and welfare organizations (or other applicable guidelines) has been installed, along with an unaudited financial statement covering the period between incorporation and application for registration. The certified public accountant's statement for new organizations will also indicate whether the organization has installed internal controls to enable the execution of an audit in accordance with the applicable guidelines at the end of the first year of operations;

(4) A current annual budget (for the first year subsequent to the year covered by the audit) detailing anticipated amounts and sources of income, showing administrative costs and identifying overseas program costs;

(5) Its latest annual report, or document of similar import;

(6) A list of the names, addresses, and citizenship of the members of its board of directors and an indication of the average number of times this board meets in a year; also such documents as appropriate to demonstrate that the board is an active governing body, e.g., a list of the dates of meetings, members in attendance, agenda items, issues voted upon, or minutes of board/executive committee meetings;

(7) A list of its top five principal headquarters positions determined by salary level and the pay and allowances of these positions;

(8) A list of the top salary levels, perquisites, and allowances of its country director positions in each country in which it has such representation. Perquisites and allowances should be valued at actual cost when provided directly by the U.S. voluntary organizations; when provided by the recipient country of local institutions they should be valued at fair market value; and

(9) A copy of its most recent IRS Form 990 or 990-PF "Return of Organization Exempt From Income Tax," or a substitute authorized by the Internal Revenue Service. If copies of any of the documents listed above cannot be provided by the applicant, the reason for the inability to provide the required document shall be stated in the letter of application.

(c) The Committee may require an applicant to submit documentation or information in addition to that required in § 203.2(b) above if, after examining the information initially submitted, it determines that such documentation does not adequately demonstrate that the applicant satisfied all the conditions of registration.

§ 203.3 Conditions of registration.

(a) An applicant shall be registered with and approved by the Committee if, after examination of all the evidence submitted, the Committee finds that the applicant satisfies all of the following conditions:

(1) It is a legal entity organized under U.S. law and maintains its principal place of business in the United States;

(2) It is nongovernmental;

(3) As a nonprofit organization, it has tax exemption under one of the following provisions of the Internal Revenue Code: Section 501(c)(3); as a social welfare organization under section 501(c)(4); section 501(c)(5); or as an association of cooperatives or credit unions under section 501(c)(6).

(4) It is engaged in, or has the potential to be engaged in voluntary charitable or development assistance operations abroad (other than religious) of a type consistent with its purposes and objectives as set forth in its articles of incorporation and included in the application and supporting documents;

(5) It has financial resources and management capability of sufficient substance to enable it to perform the services it proposes;

(6) It is controlled by an active and responsible governing body, whose members, principally U.S. citizens, serve without compensation for such

services; that this body holds regular meetings with effective policy and administrative control; and that paid officers or staff members will not constitute a majority in any decisions of the voting members of such a body; and

(7) Under its own established priorities and programs, it obtains, expends, and distributes its funds and resources in conformity with accepted ethical standards, without unreasonable cost for promotion, publicity, fundraising and administration at home or abroad. (See §§ 203.3 (b) and (c) below.)

(b) In determining whether a private and voluntary organization conducts its programs in accordance with accepted ethical standards, the Committee shall, with respect to organizations engaging in charitable solicitation, be guided by those standards developed by the Council of Better Business Bureaus, Inc. and contained in the BBB publication "Standards for Charitable Solicitations"; those standards prepared by the American Institute of Certified Public Accountants and contained in the AICPA audit guide "Audits of Voluntary Health and Welfare Organizations," and such other standards as may be adopted by the Committee from time to time after giving notice of such proposed standards to registered agencies and providing them with an opportunity to comment thereon.

(c) In determining whether a private and voluntary organization obtains, expends, and distributes its funds without unreasonable cost for promotion, publicity, fundraising, and administration, the Committee shall consider fundraising costs as presumptively unreasonable if they exceed 20 percent of the total cash and in-kind contributions to the organization. An applicant for registration or a registered agency whose fundraising costs exceed the 20 percent limitation must demonstrate to the Committee that such costs are reasonable in light of the nature of the organization's operations. Upon such a showing, the Committee may permit exceptions to the 20 percent limitation on a case-by-case basis.

(d) Each private and voluntary organization registered with the Committee shall submit such current and periodic reports and information in such forms as the Committee may require from time to time pertaining to the registrant's organization, programs, and finances, including audits by a certified public accountant, and other pertinent evidence of its activities, in order that the Committee may reassure itself that the organization continues to meet the conditions of registration. In addition, in order to maintain its registration, each registrant shall submit annually within 90 days (except as indicated for item 8 below) after the close of its fiscal year the following information:

(1) Annual financial statements prepared in accordance with generally accepted accounting principles established in the AICPA industry audit guide for voluntary health and welfare organizations and audited by an independent CPA in accordance with generally accepted AICPA auditing standards; or in the case of organizations other than voluntary health and welfare organizations, annual financial statements prepared in accordance with generally accepted accounting principles applicable to such organizations.

(2) Annual report or document of similar import;

(3) Current annual budget detailing anticipated amounts and sources of income and showing administrative costs and identifying overseas program costs. (This budget would be for the year subsequent to that covered by the audit.);

(4) A list of the top five principal headquarters positions determined by salary level and the pay and allowances for these positions;

(5) A list of the top salary levels, perquisites, and allowances of country director positions in each of the countries in which it has such representation;

(6) A list of changes in board membership including addresses and citizenship;

(7) Statement of income and expenditures—AID Schedule C-100;

(8) Copy of IRS Form 990 or 990-PF "Return of Organization Exempt From Income Tax," or a substitute authorized by the Internal Revenue Service; and

(9) Copies of amendments to articles of incorporation, bylaws, or changes in IRS classification. Each registrant shall give prompt written notice to the Committee of material changes in its organization, purposes, governing personnel, or overseas program activities.

§ 203.4 Certificates of registration.

Certificates of registration will be issued by the Committee to applicants which the Committee finds satisfy the conditions for registration set forth in § 203.3(a). An applicant for registration shall not be deemed registered with and approved by the Committee until a certificate of registration for that organization has been signed by the Chairman of the Committee and issued to the organization. The Committee may, at any time prior to the issuance of a registration certificate, reconsider and modify an earlier decision to register an applicant. Notice of registration will be published in the FEDERAL REGISTER.

§ 203.5 Denial of registration; reconsideration.

(a) If, after an examination of all the relevant evidence, the Committee decides to deny an applicant registration, the applicant will be informed of the denial and the reasons therefor in writing, with a specific statement of those conditions of registration in § 203.3 that the applicant has failed to satisfy.

(b) An applicant may, within 30 days after receipt of a notification of denial of registration, request that the Committee reconsider its application for registration and may submit additional information to the Committee bearing on its suitability for registration. An applicant requesting reconsideration will be informed in writing of the Committee's decision upon reconsideration. In addition, the Committee may, at its own discretion, reconsider a denial of registration at any time.

(c) An applicant which has been denied registration may resubmit an application for registration in accordance with § 203.2 at any time after expiration of the period permitted for requests for consideration under § 203.5(b) above or at any time after the Committee's action upon a request for reconsideration.

§ 203.6 Termination of registration.

(a) Registration shall remain in force until:

(1) Relinquished voluntarily by the registrant upon written notice to the Committee; or

(2) Terminated by the Committee for failure of the registrant to fulfill and maintain the conditions of registration.

(b) Termination proceedings pursuant to § 203.6(a)(2) shall include prior written notice to the registrant of the grounds for the proposed termination and opportunity for it to show cause why its registration should not be terminated.

(c) A formal notice of termination of registration shall be published in the FEDERAL REGISTER.

§ 203.7 Registration of foreign private and voluntary organizations

(a) Foreign private and voluntary organizations will be registered with and approved by the Committee based upon a certification by the responsible AID/State official that the foreign nonprofit voluntary organization is considered eligible to receive U.S. Government assistance. Certification of eligibility will be conducted in accordance with guidelines approved by the Administrator, AID.

(b) Notice of registration will be published in the FEDERAL REGISTER and a certificate of registration will be issued to each registered organization by the Committee. Registration shall remain

in force until: (1) Relinquished voluntarily by the registrant upon written notice to the Committee or the AID Mission or U.S. Embassy in any country in which the registrant carries out activities; or (2) terminated by the Committee upon recommendation of the official originally certifying the registrant for eligibility based upon failure of the registrant to fulfill and maintain the conditions of eligibility. A formal notice of termination or registration shall be published in the FEDERAL REGISTER.

§ 203.8 Access to records.

All records, reports, and other documents which are made available to or prepared for or by the Committee pursuant to this part 203 shall be made available for public inspection and copying pursuant to and under the procedures established by the public information regulation (22 CFR Part 212) of the Agency for International Development.

§ 203.9 Waiver authority.

(a) The Administrator of the Agency for International Development may waive, withdraw, or amend from time to time, any or all of the provisions of the regulations in this part.

(b) The Committee may waive, with respect to any applicant for registration or any registrant the specific documentary requirement of §§ 203.2(b)(3) amd 203.3(d)(1) if the Committee concludes that compliance with requirements would cause undue hardship to the applicant or registrant and that the financial reports of the applicant or registrant clearly show that it otherwise meets all the conditions for registration.

Dated: August 17, 1978.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 78-24617 Filed 8-30-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4421]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Hillsboro, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Hillsboro, Hillsborough County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Hillsboro, N.H. Send comments to: Mr. Russell Galpin, Chairman, Board of Selectmen, Town of Hillsboro, Town Office, Hillsboro, N.H. 03244.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Hillsboro, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Contoocook River	Henniker/Hillsboro corporate limits.	554
	Henniker St	556
	800 ft downstream of State Route 149.	560
	State Route 149	581
	2,640 ft upstream of State Route 149.	590
	Antrim/Hillsboro corporate limits.	597
Sand Brook	U.S. Route 202	556
	Donstream side of Henniker Rd.	556
	Upstream side of Henniker Rd.	559
	600 ft upstream of Henniker Rd.	570
	Just downstream of unnamed dirt road (1,960 ft upstream of Henniker Rd.).	613
	Just upstream of unnamed dirt road (2,000 ft upstream of Henniker Rd.).	169
	Downstream side of unnamed dirt road (640 ft downstream of Gould Pond Rd.).	619
	Downstream side of Gould Pond Rd.	622
	Upstream side of Gould Pond Rd.	626
	1,400 ft upstream of Gould Pond Rd.	650
	820 ft downstream of Bog Rd.	671
	Upstream of Bog Rd	679
North Branch Brook.	At mouth of North Branch Brook.	579
	345 ft upstream of mouth of North Branch Brook.	607
	2,380 ft upstream of mouth of North Branch Brook.	637
	4,230 ft upstream of mouth of North Branch Brook.	659
	1,370 ft downstream of State Route 31.	682
	770 ft downstream of State Route 31.	700
	State Route 31	702
	920 ft upstream of State Route 31.	720
	1,720 ft upstream of State Route 31.	740
Beards Brook	Confluence with Contoocook River.	595
	Downstream side of old State Route 9.	598
	Upstream side of new State Route 9.	603
	1,740 ft upstream of new State Route 9.	620
	820 ft downstream of Beards Rd.	630
	100 ft upstream of Beards Rd.	637
	At Shedd Jones Rd	645
	1,740 ft upstream of Shedd Jones Rd.	660
	2,670 ft upstream of Shedd Jones Rd.	680
	3,900 ft upstream of Shedd Jones Rd.	700
	1,450 ft downstream of Beards Rd. (second crossing).	720
	555 ft downstream of Beards Rd. (second crossing).	750
	50 ft downstream of Beards Rd. (second crossing).	779

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream of Beards Rd. (second crossing).	788
	Upstream side of Gleason Falls Rd.	797
	2,270 ft upstream of Gleason Falls Rd.	810
	2,900 ft downstream of Danforth Corners Rd.	818
	2,750 ft downstream of Danforth Corners Rd.	820
	Upstream side of Danforth Corners Rd.	838
	Downstream side of Cooledge Rd.	844
	Downstream side of Jones Hill Rd.	847
	Upstream side of Jones Hill Rd.	852
	3,900 ft upstream of Jones Hill Rd. (just upstream of unnamed road).	857
	7,085 ft upstream of Jones Hill Rd.	865
Shedd Brook	At mouth of Shedd Brook.	633
	2,740 ft upstream of mouth of Shedd Brook.	650
	4,400 ft upstream of mouth of Shedd Brook.	680
	1,570 ft downstream of Shedd Jones Rd.	700
	650 ft downstream of Shedd Jones Rd.	725
	Upstream side of Shedd Jones Rd.	747
	1,770 ft upstream of Shedd Jones Rd.	770
	3,000 ft upstream of Shedd Jones Rd.	800
	5,330 ft upstream of Shedd Jones Rd.	830
	7,390 ft upstream of Shedd Jones Rd.	852
Black Pond Brook.	At mouth of Black Pond Brook.	852
	Downstream side of State Route 31.	935
	50 ft upstream of State Route 31.	940
	7,200 ft upstream of State Route 31.	950
	1,160 ft downstream of corporate limits.	960
	At corporate limits	977

(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, 43 FR 7719.)

Issued: August 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24049 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4420]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Jackson, Carroll County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Jackson, Carroll County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Jackson, N.H. Send comments to: Mr. O. W. Nelson, Chairman of the Board of Selectmen of Jackson, P.O. Box 268, Jackson, N.H. 36846.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Jackson, Carroll County, N.H. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch Saco River.	0.6 mi above corporate limits.	877
	Downstream corporate limits.	816
Ellis River	White Mountain National Forest boundary (5.74 mi above corporate limits).	1,106
	5 mi above corporate limits.	1,033
	Confluence of Miles Brook.	969
	Confluence of Spruce Brook.	816
	Jackson Village Loop Bridge (upstream).	766
	Route 16A covered Bridge (upstream).	752
Marsh Brook	Carternotch Rd. (upstream).	1,170
	Confluence of Wildcat Brook.	1,095
Wildcat Brook	Mellon Rd. Bridge (upstream).	1,182
	5 Mile Circuit Rd. Bridge (upstream).	1,008
	Confluence of Great Brook.	933
	Valley Cross Rd. Bridge (upstream).	924
	Jackson Village Loop Bride (upstream).	762
	Confluence with Ellis River.	757

(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. 4001-4123); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24050 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4421]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Nashua, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Nashua, Hillsborough County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Planning Office, City Hall, 229 Main Street, Nashua, N.H. 03060. Send comments to: Mayor Maurice Arel or Mr. Richard Cane, Planning Director, City Hall, 229 Main Street, Nashua, N.H. 03060.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Nashua, Hillsborough County, N.H., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River...	Just upstream of Circumferential Highway.	112
	Approximately 500 ft upstream of New Hampshire Route 111.	114
	Hills Ferry Rd. (extended).	115
Pennichuck Brook	Just upstream of Supply Pond Dam.	139
	Just upstream of F.E. Everett Turnpike.	175
	Just upstream of Holts Pond Dam.	185
	Just upstream of the Boston & Maine RR. nearest to the western corporate limits.	191
Nashua River.....	Just upstream of Canal Street Bridge.	116
	Just upstream of F.E. Everett Turnpike.	132
	Approximately 500 ft upstream of Mine Falls Dam.	166
	Skyline Dr. (extended)...	168
	Southern corporate limits.	177
Salmon Brook.....	Just upstream of Allds Street Bridge.	118
	Just upstream of Harris Rd.	151
	Just upstream of Ridge Rd.	160
Bartemus Brook....	Just downstream of western corporate limits.	168
Hassells Brook.....	Just upstream of Lund Rd.	155
Spit Brook.....	Approximately 500 ft upstream of dam near Royal Crest Dr.	162
Lyle Reed Brook...	Just upstream of State Route 111.	169

(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, 43 FR 7719.)

Issued: August 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24051 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4422]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Northfield, Merrimack County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Northfield, Merrimack County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the town office, Northfield, N.H. Send comments to: The Honorable Robin Steady, Chairman, Board of Selectmen, Town of Northfield, Town Office, Northfield, N.H. 03276.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Northfield, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Winnipesaukee	At northwestern corporate limits.	386
	Just upstream of Cross Mill Rd.	406
	Confluence of Williams Brook.	413
	1,500 ft downstream of Tilton Dam.	416
	Just downstream of Tilton Dam.	434
	Just upstream of Tilton Dam.	446
	Just upstream of Elm Street Bridge.	451
	Just upstream of Boston and Maine RR.	456
	Just upstream of Interstate 93.	466
	At northeastern corporate limits.	471
Williams Brook	At confluence with Winnipesaukee River.	413
	Just upstream of Sargent Rd.	414
	Just upstream of New Forest Rd.	419
	Just downstream of Route 38.	429
	Just upstream of Route 38.	434
	Just upstream of Interstate 93.	442
Tioga River	Confluence with Winnipesaukee River.	471
	Just upstream of Route 140.	474
	Northeastern corporate limit.	477
Merrimack River	Southwestern corporate limit.	266
	Confluence with Cross Brook.	268
	Western corporate limit.	269

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24052 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4423]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Sanbornton, Belknap County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Sanbornton, Belknap County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the town office, Sanbornton, N.H. Send comments to: Ms. Barbara Prokosch, Chairwoman, Board of Selectmen, Town Office, Sanbornton, N.H.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Sanbornton, Belknap County, N.H., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black Brook	Mouth at Lake Winnisquam.	486
	950 ft downstream of Black Brook Rd.	486
	40 ft downstream of Black Brook Rd.	489
	Just upstream of Black Brook Rd.	492
	975 ft upstream of Black Brook Rd.	492
Chapman Brook	Mouth at Lake Winnisquam.	486
	1,650 ft upstream of Bay Rd.	486
	100 ft downsteam of Chapman Rd.	491
	Just upstream of Chapman Rd.	494
	Just downstream of Philbrook Rd.	500
	Just upstream of Philbrook Rd.	502
	300 ft upstream of Philbrook Rd.	502
	50 ft downstream of Poplar Rd.	518
	50 ft upstream of Poplar Rd.	522
Tributary A[1]	Mouth at Lake Winnisquam.	486
	40 ft downstream of Lower Bay Rd.	499
	Just upstream of Lower Bay Rd.	503
	50 ft downstream of Bay Rd.	517
	Just downstream of Bay Rd.	520
	Just upstream of Bay Rd.	523
	150 ft upstream of Bay Rd.	523
	1,260 ft upstream of Bay Rd.	547
	3,400 ft upstream of Bay Rd.	574
Salmon Brook	Downstream corporate limit.	414
	2,530 ft downstream of Prescott Rd.	418
	50 ft downstream of Prescott Rd.	468
	160 ft upstream of Prescott Rd.	472
	50 ft downstream of Interstate 93.	587
	180 ft upstream of Interstate 93.	588
	100 ft downstream of Tilton Bridge Rd.	589
	100 ft upstream of Tilton Bridge Rd.	591
	2,160 ft upstream of Tilton Bridge Rd.	594

[1]Located entering Lake Winnisquam, approximately 700 ft north of the mouth of Chapman Brook.)

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24053 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4424]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Willingboro, Burlington County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Willingboro, Burlington, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Complex, Salem Road, Willingboro, N.J. Send comments to: Hon. William T. McGrath, Mayor, Township of Willingboro, Municipal Complex, Salem Road, Willingboro, N.J. 08046.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Willingboro, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rancocoas Creek...	Burlington Pike Route 130—50 ft*.	11
	Bridge St.—50 ft**	11
Mill Creek	Beverly Rd.—50 ft*	11
	Pennypacker Rd.—50 ft*	11
	Levitt Parkway—50 ft*	13
	Kennedy Parkway—50 ft*.	22
	Willingboro Parkway—100 ft*.	26
	Footbridge—40 ft*	29
South Branch Mill Creek.	Levitt Parkway—50 ft*	17
	Midsdlebury Lane—30 ft*.	22
	Messenger Lane—100 ft*	27
	Kennedy Parkway—50 ft**.	31
Tributary to Mill Creek.	Levitt Parkway—40 ft**	23

*Upstream of centerline.
**Downstream of centerline.

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24054 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3464]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Chili, Monroe County, N.Y.

Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 54086 of the FEDERAL REGISTER, of Volume 42 FR.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following corrections are made:

Source of flooding	Location	Elevation
Black Creek.....	Confluence with Genesee River.	523

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24055 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4425]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of South Bloomfield, Pickaway County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of South Bloomfield, Pickaway County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municiple Building, 5023 South Union Street, Ashville, Ohio. Send comments to: The Honorable Albert Roese, Mayor,

Village of South Bloomfield, Municiple Building, 5023 South Union Street, Ashville, Ohio 43103.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of South Bloomfield, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mud Run	Downstream corporate limit.	678
	Downstream side of State Route 316.	678
	Upstream side of State Route 316.	681
	Downstream side of State Route 752.	681

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24056 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4426]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Gresham, Multnomah County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Gresham, Multnomah County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 150 West Powell, Gresham, Oreg. Send comments to: Mr. Burke Raymond, City Manager, City of Gresham, City Hall, 105 West Powell, Gresham, Oreg. 97030.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Gresham, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Johnson Creek	Portland Traction Co. RR.—100 ft upstream.	261
	Southeast 190th Ave	264
	Confluence with Butler Creek.	267
	Towle Ave	281
	Walters Rd	294
	Bull Run Rd	296
	Main Ave	298
	Park footbridge	300
	Dowsett Lane	305
	Southeast Regner Rd	312
	Liberty Ave.—50 ft upstream.	322
	Hogan Rd	334
	Upstream corporate limits.	352
Beaver Creek	Downstream corporate limits.	212
	Confluence with Kelly Creek—100 ft downstream.	230
	Upstream corporate limits.	241

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24057 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4428]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Hatfield, Montgomery County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Hatfield, Montgomery County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building of Hatfield, School Road and Chestnut Street, Hatfield, Pa. 19440. Send comments to: Mr. Sidney C. Britton, Township Manager of Hatfield, Hatfield Township Building, School Road and Chestnut Street, Hatfield, Pa. 19440.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Hatfield, Montgomery County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Neshaminy Creek.	Downstream corporate limits (upstream county line road).	272
	Upstream Old Bethlehem Pike.	278
	Upstream Lexington Rd.	285
	Upstream Orvilla Rd	295
	Upstream Souderton Pike.	327
	Upstream Bergey Rd	335
	Upstream Hallowell Corporation Rd.	346
Colmar Tributary.	Upstream Walnut St.....	276
	Upstream ConRail	281
	Upstream Old Bethlehem Pike.	293
Unionville Tributary.	Upstream Trewigtown Rd.	292
	Downstream Trewigtown Rd.	285
	Upstream Lexington Rd.	301
	Downstream Orvilla Rd.	309
	Upstream Orvilla Rd	314
	Upstream corporate limits (downstream county line road).	345
Tributary to Unionville tributary.	Confluence with Unionville tributary.	314
	Upstream corporate limits (downstream county line road).	343
Lansdale tributary	U.S. Route 463 (Hatfield Valley Rd.).	291
	Upstream Schwab Rd	297
	Upstream Huffel Rd	308
	Upstream Oak Park Dr ..	311
	Upstream Orvilla Rd	326
North Hatfield tributary.	Downstream corporate limits.	304
	Upstream Maple Ave	308
	Upstream School Rd.....	323
	Downstream Unionville Pike.	330

(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, 43 FR 7719.)

Issued: August 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24058 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4429]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determination for the City of Lebanon, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Lebanon, Lebanon County, Pa.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the Lebanon Daily News on September 27, 1976, and in the Lebanon Daily News published on September 28, 1976, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Windows, City Hall, 400 South 8th Street, Lebanon, Pa. Send comments to: Hon. George H. Heverling, Jr., Mayor of Lebanon, 400 South 8th Street, Lebanon, Pa. 17042.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed for selected locations in the city of Lebanon, Lebanon County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a). These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet above mean sea level
Brandywine Creek	Baldwin St	507
	North 7th St	507
	North 8th St	500
	State Route 72	496
	Lehman St	469
	ConRail	465
	Willow St	453
Quittapahilla Creek.	5th Ave	469
	Lincoln Ave	467
	4th St	465
	North 6th St	462
	North 7th St	462
	North 8th St	460
	North 9th St	457
	North 10th St	454
	Willow St	453
	North 12th St	452
	Corporate limits (downstream).	443
Hazel Dyke Creek.	3d Ave	478
	State Dr	477
	Noble St	471
	3d St	470
	Broad St	468
	South 6th St	467
	South 7th St	465
	South 8th St	463
	Quenton Rd	461
	Cornwall Rd	459
	Walnut St	458
	Chestnut St	456
Tributary of Brandywine Creek.	Center St	507
	Magnolia Ave	507

(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, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24059 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4430]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Middletown, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Middletown, Bucks County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Middletown Township Building, 700 New Rodgers Road, Levittown, Pa. 19056. Send comments to: Mr. James Dillon, Township Manager of Middletown, 700 New Rodgers Road, Levittown, Pa. 19056.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Middletown, Bucks County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neshaminy Creek.	Township corporate limits.	23
	Upstream Hulmeville corporate limits.	35
	U.S. Route 1 upstream	48
	ConRail	51
	Brownsville Rd. upstream.	60
	Langhorne corporate limits downstream.	69
	Langhorne corporate limits upstream.	71
	Bridgeton Pike downstream.	73
	ConRail (Reading RR.) upstream.	86
Mill Creek	Township corporate limits at Newportville Rd. upstream.	48
	Frosty Hollow Rd. upstream.	63
	Forsythia Cross downstream.	70
	Trenton Rd. upstream	77
	New Rodgers Rd. upstream.	84
	I-95 upstream	87
	U.S. Route 1 upstream	91
	Flower Mill Rd. upstream.	103
	Old Lincoln Highway downstream.	126
	Bristol Pike downstream	146
Queen Anne Creek.	Township corporate limits downstream.	48
	Township corporate limits upstream.	58

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24060 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4431]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Shoemakersville, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Shoemakersville, Bucks County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the borough of Shoemakersville Clerk's Office, 506 Main Street, Shoemakersville, Pa 19555. Send comments to: Ms. Ruth E. Sabold, 506 Main Street, Shoemakersville, Pa. 19555.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Shoemakersville, Bucks County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schuylkill River	Downstream corporate limits extended.	307
	Confluence of Plum Creek.	309.5
	Miller Street Bridge	311.5
	Upstream corporate limits extended.	312.5
Plum Creek	Confluence with Schuylkill River.	309.5
	Main Street Bridge	309.5
	ConRail Bridge	327.5
	Franklin Street Bridge	327.5
	Pennsylvania Route 61	327.5

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24061 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4432]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Highland Park, Dallas County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Highland Park, Dallas County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Highland Park Town Hall, Town Engineer's Office, 4700 Drexel Street, Dallas Tex. 75205. Send comments to: Mayor Richard Jones or Mr. Jim Clary, Town Engineer, Town Hall, 4700 Drexel Street, Dallas, Tex. 75205.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Highland Park, Dallas County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Turtle Creek	Just upstream of Armstrong Ave. and dam.	484
	Just upstream of Beverly Dr.	502
	Just upstream of Dallas Country Club south dam.	525
Stream 6A1	Just upstream of Lexington Ave.	504
	Just upstream of Miramar Ave.	515

(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, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24062 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4433]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Mart, McLennan County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Mart, McLennan County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 112 North Commerce Street, Mart, Tex. 76664. Send comments to: Mayor Dave Henry or Mr. Ron Neal, Water Superintendent, City Hall, 112 North Commerce Street, Mart, Tex. 76664.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Mart, McLennan County, Tex. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 1	Southeastern corporate limits.	498
	Approximately 150 ft downstream of Carpenter St.	508
Tributary 2	Approximately 100 ft downstream of Enterprise Row.	506
	Just downstrean of Front St.	513

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24063 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4434]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Pharr, McLennan County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Pharr, McLennan County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the city manager's office, City Hall, P.O. Drawer B, Pharr, Tex. 78577. Send comments to: Mayor Quinten Newcomb or Mr. Reyes Vele, city manager, City Hall, P.O. Drawer B, Pharr, Tex. 78577.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Pharr, McLennan County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ponding at the Natural Depression in Northwest Pharr.	At Intersection of Bell Ave. and Hibiscus St.	110
Drain "Ex"	Intersection of Drain "Ex" and U.S. Highway 281.	90

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Drain "Ex"	Intersection of South "I" Rd. and Lateral "E" canal.	90

(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, 43 FR 7719.)

Issued: August 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24064 Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4435]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of University Park, Dallas County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of University Park, Dallas County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Building Department, City Hall, 3800 University Boulevard, Dallas, Tex. 75205. Send comments to: Mayor Roy Coffee, or Mr. Leland Nelson, city manager, City Hall, 3800 University Boulevard, Dallas, Tex. 75205.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of University Park, Dallas County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Turtle Creek	Just downstream of Vassar Dr.	538
Stream 6A2	Just upstream of Turtle Creek Blvd.	542

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24065Filed 8-30-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4436]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Valley Mills, Bosque and McLennan Counties, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Valley Mills, Bosque and McLennan Counties, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Secretary's Office, City Hall, Valley Mills, Tex. 76689. Send comments to: Mayor Clyde Burns or Ms. Haroldean Mars, City Secretary, City Hall, Valley Mills, Tex. 76689.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Valley Mills, Bosque and McLennan Counties, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed

to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 0	Just upstream Highway 56.	563
	Just downstream State Highway 6.	568
Tributary 1	Avenue A extended	580
	Approximately 70 ft upstream State Highway 6.	588

(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, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24066 Filed 8-30-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-2004]

INCOME TAX

Amortization of Expenditures for On-the-Job Training and Child Care Facilities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the amortization deduction for on-the-job training and child care facilities. Changes to the applicable tax law were made by the Revenue Act of 1971, and the Tax Reduction and Simplification Act of 1977. The regulations will provide the public with the guidance needed to comply with these acts and will affect all employers who wish to use this new amortization deduction.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 30, 1978. The amendments are proposed to be effective for taxable years ending after December 31, 1971, and in the case of child care facilities, only with respect to expenditures made during the 10-year period beginning January 1, 1972, and ending December 31, 1981. In the case of on-the-job training facilities, the amendments are proposed to be effective for taxable years ending after December 31, 1971, but only with respect to expenditures made during the 5-year period beginning January 1, 1972, and ending December 31, 1976. Therefore, the regulations will provide guidance primarily for the amortization of child care facilities.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T (LR-2004), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Robert B. Coplan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the income tax regulations (26 CFR Part 1) under section 188 of the Internal Revenue Code 1954. These amendments are proposed to conform the regulations to section 303 of the Revenue Act of 1971 (85 Stat. 521) and section 402 of the Tax Reduction and Simplification Act of 1977 (91 Stat. 155) and are to be issued under the authority contained in sections 188 and 7805 of the Internal Revenue Code of 1954 (88 Stat. 521 and 68A Stat. 917; 26 U.S.C. 188, 7805).

IN GENERAL

The new tax provisions permit employers to elect to amortize certain expenditures chargeable to capital account to acquire, construct, reconstruct, or rehabilitate section 188 property ratably over a period of 60 months, beginning with the month in which the property is placed in service. However, if this selection is made, the portion of the basis of section 188 property attributable to the capitalization of the expenditure cannot be depreciated under other income tax provisions. Further, if the election is made, section 188 property is not eligible for the investment credit. In addition, this election could result in additional items of tax preferences.

SECTION 188 PROPERTY

Guidelines are provided in the proposed regulations for determining what items of property qualify as section 188 property. All such intems must be depreciable tangible property located within the United States and must also be specifically used as an integral part either of a qualified on-the-job training facility or of a qualified child care center facility. Sections 1.188-1(d) (3) and (4) of the proposed regulations respectively provide the rules for the requirements for qualification of an on-the-job training facility and of a child care center facility. In general, a qualified on-the-job training facility is primarily used by an employer in connection with an occupational training program for that employer's employees or prospective employees, and a qualified child care center facility is primarily used by an employer to provide adequate child care services for the children of the employees of that employer.

ELECTION

Section 1.188-1(b) of the proposed regulations provides rules governing the time and manner and effect of making the election to amortize an eligible expenditure for section 188 property and section 1.188-1(c) of the proposed regulations sets forth rules governing the termination of a section 188 election. Under these rules, the election is to be made on an item to item basis and the election, or elections, shall be deemed to be terminated as to a specific item of section 188 property when it is no longer used in connection with the operation of a qualified facility and as to all items of section 188 property comprising a facility when the facility ceases to be qualified.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

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

DRAFTING INFORMATION

The principal author of these proposed regulations was Richard J. Wickersham of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Serv-

ice. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part are as follows:

PARAGRAPH 1. There is added immediately after § 1.187-2 the following new section:

§ 1.188-1 Amortization of certain expenditures for qualified on-the-job training and child care facilities.

(a) *Allowance of deduction*—(1) *In general.* Under section 188, at the election of the taxpayer, any eligible expenditure (as defined in paragraph (d)(1) of this section) made by such taxpayer to acquire, construct, reconstruct, or rehabilitate section 188 property (as defined in paragraph (d)(2) of this section) shall be allowable as a deduction ratably over a period of 60 months. Such 60-month period shall begin with the month in which such property is placed in service. For rules for making the election, see paragraph (b) of this section. For rules relating to the termination of an election, see paragraph (c) of this section.

(2) *Amount of deduction*—(i) *In general.* For each eligible expenditure attributable to an item of section 188 property the amortization deduction shall be an amount, with respect to each month of the 60-month amortization period which falls within the taxable year, equal to the eligible expenditure divided by 60. The total amortization deduction with respect to each item of section 188 property for a particular taxable year is the sum of the amortization deductions allowable for each month of the 60-month period which falls within such taxable year. The total amortization deduction under section 188 for a particular taxable year is the sum of the amortization deductions allowable with respect to each item of section 188 property for that taxable year.

(ii) *Separate amortization period for each expenditure.* Each eligible expenditure attributable to an item of section 188 property to which an election relates shall be amortized over a 60-month period beginning with the month in which the item of section 188 property is placed in service. Thus, if a taxpayer makes an eligible expenditure for an addition to, or improvement of, section 188 property, such expenditure must be amortized over a separate 60-month period beginning with the month in which the section 188 property is placed in service.

(iii) *Separate items.* The determination of what constitutes a separate item of section 188 property is to be made on the basis of the facts and circumstances of each individual case. Additions or improvements to an existing item of section 188 property are treated as a separate item of section 188 property. In general, each item of personal property is a separate item of property and each building, or separate element or structural component thereof, is a separate item of property. For purposes of subdivisions (i) and (ii) of this subparagraph, two or more items of property may be treated as a single item of property if such items (A) are placed in service within the same month of the taxable year, (B) have the same estimated useful life, and (C) are to be used in a functionally related manner in the operation of a qualified on-the-job training or child care facility.

(iv) *Disposition of property or termination of election.* If an item of section 188 property is sold or exchanged or otherwise disposed of (or if the item of property ceases to be used as section 188 property by the taxpayer) during a particular month, then the amortization deduction (if any) allowable to the taxpayer in respect of that item for that month shall be an amount which bears the same ratio to the amount to which the taxpayer would be entitled for a full month as the number of days in such month during which the property was held by him (or used by him as section 188 property) bears to the total number of days in such month.

(3) *Effect on other deductions.* The amortization deduction provided by section 188(a) with respect to any month shall be in lieu of any depreciation deduction which would otherwise be allowable under section 167 or 179 with respect to that portion of the adjusted basis of the property attributable to an adjustment under section 1016(a)(1) made on account of an eligible expenditure.

(4) *Depreciation with respect to property ceasing to be used as section 188 property.* A taxpayer is entitled to a deduction for the depreciation (to the extent allowable under section 167) of property with respect to which the election under section 188 is terminated under the provisions of paragraph (c) of this section. The deduction for depreciation shall begin with the date of such termination and shall be computed on the adjusted basis of the property as of such date. The depreciation deduction shall be based upon the estimated remaining useful life and salvage value authorized under section 167 for the property as of the termination date.

(5) *Investment credit not to be allowed.* Any property with respect to which an election has been made under section 188(a) shall not be treated as section 38 property within the meaning of section 48(a).

(6) *Special rules*—(i) *Life estates.* In the case of section 188 property held by one person for life with the remainder to another person, the amortization deduction under section 188(a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant during his life.

(ii) *Certain corporate acquisitions.* If the assets of a corporation which has elected to take the amortization deduction under section 188(a) are acquired by another corporation in a transaction to which section 381(a) (relating to carryovers in certain corporate acquisitions) applies, the acquiring corporation is to be treated as if it were the distributor or transferor corporation for purposes of this section.

(iii) *Estates and trusts.* For the allowance of the amortization deduction in the case of estates and trusts, see section 642(f) and § 1.642(f)-1.

(iv) *Partnerships.* For the allowance of the amortization deduction in the case of partnerships, see section 703 and § 1.703-1.

(b) *Time and manner of making election*—(1) *In general.* Except as otherwise provided in subparagraph (2) of this paragraph, and election to amortize an eligible expenditure under section 188 shall be made by attaching, to the taxpayer's income tax return for the taxable period for which the deduction if first allowable to such taxpayer, a written statement containing:

(i) A description clearly identifying each item of property (or two or more items of property treated as a single item) forming a part of a qualified on-the-job training or child care facility to which the election relates, e.g., building, classroom equipment, etc.;

(ii) The date on which the eligible expenditure was made for such item of property (or the period during which eligible expenditures were made for two or more items of property treated as a single item of property);

(iii) The date on which such item of property was "placed in service" (see paragraph (d)(5) of this section);

(iv) The amount of the eligible expenditure for such item of property (or the total amount of expenditures for two or more items of property treated as as single item); and

(v) The annual amortization deduction claimed with respect to such item of property.

If the taxpayer does not file a timely return (taking into account extensions of the time for filing) for the taxable year for which the election is first to be made, the election shall be filed at the time the taxpayer files his first return for that year. The election may be made with an amended return only

if such amended return is filed no later than the time prescribed by law (including extensions thereof) for filing the return for the taxable year of election.

(2) *Special rule.* With respect to any return filed before (90 days after the date on which final regulations are filed with the Office of the Federal Register), the election to amortize an eligible expenditure for section 188 property shall be made by a statement on, or attached to, the income tax return (or an amended return) for the taxable year, indicating that an election is being made under section 188 and setting forth information to identify the election and the facility or facilities to which it applies. An election made under the provisions of this subparagraph, must be made not later than (i) the time, including extensions thereof, prescribed by law for filing the income tax return for the first taxable year for which the election is being made or (ii) before (90 days after the date on which final regulations under section 188 are filed with the Office of the Federal Register), whichever is later. Nothing in this subparagraph shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(3) *No other method of making election.* No method for making the election under section 188(a) other than the method prescribed in this paragraph shall be permitted. If an election to amortize section 188 properly is not made within the time and in the manner prescribed in this paragraph, no election may be made (by the filing of an amended return or in any other manner) with respect to such section 188 property.

(4) *Effect of election.* An election once made may not be revoked by a taxpayer with respect to any item of section 188 property to which the election relates. The election of the amortization deducted for an item of section 188 property shall not affect the taxpayer's right to elect or not to elect the amortization deduction as to other items of section 188 property even though the items are part of the same facility. For rules relating to the termination of an election other than by revocation by the taxpayer, see paragraph (c) of this section.

(c) *Termination of election.* If the specific use of an item of section 188 property in connection with a qualified on-the-job training or child care facility is discontinued, the election made with respect to that item of property shall be terminated. The termination shall be effective with respect to such item of property as of the earliest date on which the taxpayer's specific use of the item is no longer in connection with the operation of a qualified on-the-job training or child care facility. If a facility ceases to meet the applicable requirements of paragraph (d)(3) of this section, relating to qualified on-the-job training facilities, or paragraph (d)(4) of this section, relating to qualified child care facilities, the election or elections made with respect to the items of section 188 property comprising such facility shall be terminated. The termination shall be effective with respect to such items of property as of the earliest date on which the facility is no longer qualified under the applicable rules. For rules relating to depreciation with respect to property ceasing to be used as section 188 property, see paragraph (a)(4) of this section.

(d) *Definitions and special requirements*—(1) *Eligible expenditure.* For purposes of this section, the term "eligible expenditure" means an expenditure—

(i) Chargeable to capital account;

(ii) Made after December 31, 1971, and before January 1, 1982, to acquire, construct, reconstruct, or rehabilitate section 188 property which is a qualified child care center facility; (or, made after December 31, 1971, and before January 1, 1977, to acquire, construct, reconstruct, or rehabilitate section 188 property which is a qualified on-the-job training facility); and

(iii) For which, but only to the extent that, a grant or other reimbursement excludable from gross income is not, directly or indirectly, payable to, or for the benefit of, the taxpayer with respect to such expenditure under any job training or child care program established or funded by the United States, a State, or any instrumentality of the foregoing, or the District of Columbia.

For purposes of this subparagraph, an expenditure is considered to be made when actually paid by a taxpayer who computes his taxable income under the cash receipts and disbursements method or when the obligation therefor is incurred by a taxpayer who computes his taxable income under the accrual method. See subparagraph (5) of this paragraph for the determination of when section 188 property is placed in service for purposes of beginning the 60-month amortization period.

(2) *Section 188 property.* Section 188 property is tangible property which is—

(i) Of a character subject to depreciation;

(ii) Located within the United States; and

(iii) Specifically used as an integral part of a qualified on-the-job training facility (as defined in subparagraph (3) of this paragraph) or as an integral part of a qualified child care center facility (as defined in subparagraph (4) of this paragraph).

(3) *Qualified on-the-job training facility.* A "qualified on-the-job training facility" is a facility specifically used by an employer as an on-the-job training facility in connection with an occupational training program for his employees or prospective employees provided that with respect to such program—

(i) All of the following requirements are met—

(A) There is offered at the training facility a systematic program comprised of work and training and related instruction;

(B) The occupation, together with a listing of its basic skills, and the estimated schedule of time for accomplishments of such skills, are clearly identified;

(C) The content of the training is adequate to qualify the employee, or prospective employee, for the occupation for which the individual is being trained;

(D) The skills are to be imparted by competent instructors;

(E) Upon completion of the training, placement is to be based primarily upon the skills learned through the training program;

(F) The period of training is not less than the time necessary to acquire minimum job skills nor longer than the usual period of training for the same occupation; and

(G) There is reasonable certainty that employment will be available with the employer in the occupation for which the training is provided; or

(ii) The employer has entered into an agreement with the United States, or a State agency, under the provisions of the Manpower Development and Training Act of 1962, as amended and supplemented (42 U.S.C. 2571 et seq.), the Economic Opportunity Act of 1964, as amended and supplemented (42 U.S.C. 2701 et seq.), section 432(b)(1) of the Social Security Act, as amended and supplemented (42 U.S.C. 632(b)(1)), the National Apprenticeship Act of 1937, as amended and supplemented (29 U.S.C. 50 et seq.), or other similar Federal statute.

A "facility" consists of any portion of a building, and its structural components, in which the training is conducted and the equipment or other personal property necessary to teach a trainee the basic skills requisite for satisfactory performance in the occupation for which the training is given. For purposes of this section, a facility is considered to be specifically used as an on-the-job training facility if such facility is actually used for such purposes and is not used in a significant manner for any purpose other than job training. For purposes of the preceding sentence if a facility is used 20

percent of the time for a purpose other than on-the-job training, it would be used in a significant manner for a purpose other than job training. Thus, a production facility is not an on-the-job training facility for purposes of section 188 simply because new employees receive training on the machines they will be using as fully productive employees. A facility is considered to be used by an employer in connection with an occupational training program for his employees or prospective employees if at least 80 percent of the trainees participating in the program are employees or prospective employees. For purposes of this section, a prospective employee is a trainee with respect to whom it is reasonably expected that the trainee will be employed by the employer upon successful completion of the training program.

(4) *Qualified child care facility.* A "qualified child care facility" is a facility which is—

(i) Particularly suited to provide child care services and specifically used by an employer to provide such services primarily for his employees' children;

(ii) Operated as a licensed or approved facility under applicable local law, if any, relating to the day care of children; and

(iii) If directly or indirectly funded to any extent by the United States, established and operated in compliance with the requirements contained in Part 71 of title 45 of the Code of Federal Regulations, relating to Federal Interagency Day Care Requirements.

For purposes of this subparagraph, a "facility" consists of the buildings, or portions or structural components thereof, in which children receive such personal care, protection, and supervision in the absence of their parents as may be required to meet their needs, and the equipment or other personal property necessary to render such services. Whether or not a facility, or any component property thereof, is particularly suited for the needs of the children being cared for depends upon the facts and circumstances of each individual case. Generally, a building and its structural components, or a room therein, and equipment are particularly suitable for furnishing child care service if they are designed or adapted for such use or satisfy requirements under local law for such use as a condition to granting a license for the operation of the facility. For example, such property includes special kitchen or toilet facilities connected to the building or room in which the services are rendered and equipment such as children's desks, chairs, and play or instructional equipment. Such property would not include general purpose rooms used for many purposes (for example, a room used as an employee recreation center during the evening) nor would it include a room or a part of a room which is simply screened off for use by children during the day. For purposes of this section, a facility is considered to be specifically used as a child care facility if such facility is actually used for such purpose and is not used in a significant manner for any purpose other than child care. For purposes of this subparagraph, a child care facility is used by an employer to provide child care services primarily for children of employees of the employer if, for any month, no more than 20 percent of the average daily enrolled or attending children for such month are other than children of such employees.

(5) *Placed in service.* For purposes of section 188 and this section, the term "placed in service" shall have the meaning assigned to such term in paragraph (d) of § 1.46-3.

(e) *Effective date.* The provisions of section 188 and this section apply to taxable years ending after December 31, 1971.

PAR. 2. Section 1.642(f)-1 is amended to read as follows:

§ 1.642(f)-1 Amortization deductions.

An estate or trust is allowed amortization deductions with respect to an emergency facility as defined in section 168(d), with respect to a certified pollution control facility as defined in section 169(d), with respect to qualified railroad rolling stock as defined in section 184(d), with respect to certified coal mine safety equipment as defined in section 187(d), and with respect to on-the-job training and child care facilities as defined in section 188(b), in the same manner and to the same extent as in the case of an individual. However, the principles governing the apportionment of the deductions for depreciation and depletion between fiduciaries and the beneficiaries of an estate or trust (see sections 167(h) and 611(b) and the regulations thereunder) shall be applicable with respect to such amortization deductions.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-24620 Filed 8-30-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 933-3]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: This action contains EPA's proposed list of major source categories for which standards of performance must be promulgated by August 1982. The Clean Air Act Amendments of 1977 require EPA to publish by August 1978, a list of the categories of major stationary sources which have not been previously listed as source categories for which standards of perforamce will be established. The intent of this action is to provide interested parties an opportunity to comment on the proposed list.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed list.

Comments. Comments must be received on or before October 30, 1978.

Public Hearing. The public hearing will be held on Friday, September 29, 1978.

Request to Speak at Hearing. Persons wishing to attend the hearing or present oral testimony should contact EPA by September 25, 1978.

Comments. Comments should be submitted to Gary D. McCutchen, Standards Development Branch (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Public Hearing. The public hearing will be held Friday, September 29, 1978, at 9 a.m. to 4 p.m., in room 3906, Waterside Mall, 401 M Street SW., Washington, D.C. Persons wishing to present oral testimony should notify Mary Jane Clark, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number 919-541-5271.

Background Document. The background document for the proposed priority list may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, N.C. 27711, telephone number 919-541-2777. Please refer to "priorities for New Source Performance Standards Under the Clean Air Act Amendments of 1977 (EPA-450/3-78-019)."

Docket. EPA has determined that a docket is not required for this action, but public comments received and a copy of the background report used in

the development of this list will be available for public inspection and copying at the Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary McCutchen, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number 919-541-5421.

SUPPLEMENTARY INFORMATION: The new source performance standard (NSPS) program began in December 1970, when the Clean Air Act was signed into law. Authorized under section 111 of the act, NSPS were to require the best control system (considering cost) for new facilities, and were intended to complement the other air quality management approaches authorized by the 1970 act. A total of 28 source categories are regulated by NSPS, with NSPS for an additional 25 source categories under development.

During the 1977 hearings on the Clean Air Act, Congress received testimony on the need for more rapid development of NSPS. There was concern that not all sources which had the potential to endanger public health or welfare were controlled by NSPS and that the potential existed for "environmental blackmail" from source categories not subject to NSPS. This concern was explicitly expressed by the Governor of New Jersey, who felt that industry could threaten to leave, or simply not locate in, States with more stringent regulations than their neighbors. These concerns were reflected in the Clean Air Act Amendments of 1977, Specifically in section 111(f).

Section 111(f) requires that EPA publish a list of major stationary sources of air pollution not already listed under section 111(b)(1)(A); that is, for which NSPS have not yet been proposed or promulgated. The list is to be promulgated by August 7, 1978, after EPA has provided notice of and opportunity for public hearings and consulted with Governors and State air pollution control agencies. In developing priorities, EPA is to consider: (1) The quantity of emissions from each source category, (2) the extent to which each pollutant endangers public health or welfare, and (3) the mobility and competitive nature of each stationary source category, e.g., the capability of a new or existing source to locate in areas with less stringent air pollution control regulations. After the list is promulgated, Governors may submit applications under section 111(g) to add major source categories to the list, add any source category to the list which may endanger public health or welfare, change the priority ranking, or revise promulgated NSPS.

Developing the List

EPA initiated development of this list by compiling information on a large number of source categories from a number of literature resources. This preliminary list was evaluated using the criteria specified in section 111(f). A draft report describing this analysis was reviewed by the National Air Pollution Control Techniques Advisory Committee on April 6, 1978. A final report is now available which, in addition to describing the methodology used to apply the criteria, provides the resource material used in developing the list.

The background report may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, N.C. 27711 (specify "Priorities for NSPS Under the Clean Air Act Amendments of 1977," EPA-450/3-78-019).

The data were first analyzed to determine those sources which have the potential to emit 100 tons or more per year of any one pollutant. These major source categories were then subjected to a priority ranking procedure using the three criteria specified in the act. In summary, this procedure, which is described in more detail in the following section, first ranks source categories on a pollutant by pollutant basis. This results in nine lists [one for each pollutant—hydrocarbons (HC), nitrogen oxides (NO_x), particulate matter (PM), sulfur dioxide (SO_2), carbon monoxide (CO), lead (Pb), fluorides (F), acid mist (AM), and hydrogen sulfide (H_2S)] with each list ranked using the criteria in the act. In this ranking, first priority is given to quantity of emissions, second priority to potential impact on health and welfare, and third priority to mobility. Thus, sources with the greatest growth rates and emission reduction potential are high on each list; sources with limited choice of location, low growth and small emission potential are low on each list.

The nine lists are combined into one by selecting pollutant goals—a procedure which, in effect, assigns a relative priority to pollutants based upon the potential impact of NSPS. After the pollutant goals are selected, the final priority list is established through the selection of source categories which will have maximum impact on attaining the selected goals. The effect of this procedure is to emphasize control of organic (hydrocarbon), particulate matter, and NO_x emissions and to give carbon monoxide and noncriteria pollutants a lower priority.

The ranking of source categories on the list and, in fact, the differentiation between major and minor sources is sensitive to the accuracy of the data utilized. The ranking is especially sensitive to emission factors, source sizes, and source category growth rates. Because the data base used to establish the priority list was obtained from a number of literature sources and because time was not available to perform an independent verification of these data, it is expected that further study will identify certain inaccuracies in the original data base. If such errors are identified after promulgation, EPA may, as described below, take action to reorder priorities, delete sources from the list, or add sources to that list.

In developing standards for source categories on the list, EPA's first activity will be a screening study. This activity takes approximately 2 months to complete for each source category and involves gathering basic data concerning the industry for which a standard is planned. This information is obtained from State and local agencies and from owners and operators of sources in the affected industry, and is more accurate and representative than the data base used in developing the priority list. EPA expects to initiate the screening studies for all source categories listed within 18 to 24 months after promulgation of the list and, therefore, even very large errors in the priority ranking will have little effect on the date a project is started. If the screening study indicates that an NSPS would have little or no effect on emissions, or that an NSPS would be impractical, a source category can be removed from the list at the completion of the screening study before a standard is developed. Finding that uncontrolled emission rates are below 100 tons per year or that the source category exhibits a low growth rate are examples of cases which could cause EPA to remove a category or lower its priority. EPA may, however, develop standards for sources which emit less than 100 tons per year, especially certain minor sources which, in aggregate, represent a large quantity of emissions.

The proposed list identifies major source categories, defined as categories which have average size sources with the potential (uncontrolled) to emit 100 tons per year (TPY) or more of any pollutant regulated under the act. Certain new sources of smaller than average size within these categories may have less than a 100 ton per year emission potential, just as very large units from nonlisted minor source categories may have more than this potential. Thus, this list of major source categories was developed only for the purpose of defining NSPS priorities and should not be used to define sources subject to new source review (NSR), which is conducted on a case-

by-case basis. Moreover, some NSR programs such as prevention of significant deterioration have separate and distinct criteria for defining a major source (e.g., 100 tons per year potential for certain source types and 250 tons per year for others).

Two groups of sources in addition to minor sources are not included on the proposed list. One group includes sources which could not be evaluated due to insufficient data. This lack of data suggests that these sources, which are identified in the background report, "Priorities for NSPS under the Clean Air Act of 1977," have not previously been regulated or studied and, therefore, are probably not major sources. Nevertheless, EPA will continue to investigate these sources and will add to the list any which are identified as being major.

The second group of unlisted source categories consists of those already listed under section 111(b)(1)(A). These are:

Fossil-fuel-fired steam generators.
Incinerators.
Portland cement plants.
Nitric acid plants.
Sulfuric acid plants.
Asphalt concrete plants.
Petroleum refineries.
Storage vessels for petroleum liquids.
Secondary lead smelters.
Secondary brass and bronze ingot production plants.
Iron and steel plants.
Sewage treatment plants.
Primary copper smelters.
Primary zinc smelters.
Primary lead smelters.
Primary aluminum reduction plants.
Phosphate fertilizer industry: Wet process phosphoric acid plants.
Phosphate fertilizer industry: Superphosphoric acid plants.
Phosphate fertilizer industry: Diammonium phosphate plants.
Phosphate fertilizer industry: Triple superphosphate plants.
Phosphate fertilizer industry: Granular triple superphosphate storage facilities.
Coal preparation plants.
Ferroalloy production facilities.
Steel plants: Electric arc furnaces.
Kraft pulpmills.
Lime plants.
Grain elevators.
Stationary gas turbines.

There are, however, some facilities (or subcategories) within these source categories for which NSPS have not been developed, but which may by themselves be significant sources of air pollution. A number of these facilities were evaluated as if they were separate source categories; three which ranked high in priority are included on the priority list to indicate that EPA plans to develop standards for them: Petroleum refinery fugitive emissions, industrial fossil-fuel-fired steam generators, and industrial-commercial incinerators. In addition to these, EPA will continue to evaluate affected facilities within listed source categories and may from time to time add these to the list. Sintering plants in the iron and steel industry is an example of a facility now being studied. Although the growth rate for new sintering capacity is presently very low, giving this facility a very low priority, EPA is continuing to assess emission control and measurement technology with a view toward possible development of a standard for sintering plants at a later date.

Determining Priorities

The methodology used to establish priorities is explained in detail in the report "Priorities for New Source Performance Standards Under the Clean Air Act Amendments of 1977." The description that follows conveys the basic concepts used, but does not detail the entire procedure.

The first task in the ranking procedure was to develop a method for applying the three criteria specified by the CAA amendments to each of the nine pollutants. The second task was to establish goals for each pollutant so that a single multipollutant priority list could be compiled.

The first CAA criterion, quantity of emissions, is represented by the emissions an NSPS would prevent after being in effect for a specified period of time; in this case, 10 years. Emissions for 1990 are first calculated assuming that the present level of control continues to be applied to new sources; the resulting 1990 emission level is termed T_S. Then 1990 emissions are calculated assuming a best level of control, representative of an NSPS, is applied to all new sources constructed between 1980 and 1990; this 1990 emission level is termed T_N. The emissions that could be prevented by an NSPS after 10 years is represented by the difference between T_S and T_N. The value of $(T_S - T_N)$ represents the first CAA criterion.

The approach used to derive an objective measure of the impact or extent to which public health or welfare could be endangered consists of first determining the ambient air concentration (X) for each pollutant in the vicinity of a typical facility. This involves several assumptions, including the tape of meteorology and dispersion equations, concentration and quantity of emissions, and average stack heights and stack gas emission flow rates and temperatures. Since one pollutant could have no discernible effects at a concentration at which another pollutant could be dangerous, a method was needed to relate each of these ambient air concentrations to their health or welfare effects. The approach selected was to divide each ambient air concentration by an appropriate ambient threshold value (ATV) for that pollutant. The ATV represents a level at which public health or welfare may be endangered. The ATV is represented by the national ambient air quality standard (NAAQS) for criteria pollutants and by a concentration based on the threshold limit value for the other pollutants studied. These "normalized" values range from 0.0001 to 176 and are used to represent health or welfare endangerment. A normalized value of 1.0 would mean that ambient concentrations in the vicinity of a typical facility are approximately equal to the ATV level.

Evaluation of the mobility and competitive nature of source categories was subjective. "Mobility and competitive nature" in this analysis refers to the feasibility of stationary source categories to relocate to, or locate new facilities in, areas with less stringent air pollution control regulations. Nonmovable stationary source categories were identified on the basis of being tied either to the market (e.g., dry cleaners) or to a supply of materials (e.g., mining operations). All other stationary source categories were considered movable by default.

For each pollutant, source categories were first separated into three groups: high, medium, and low emmissions prevention potential $(T_S - T_N)$. Each of these three emissions groups was then divided into three subgroups: high, medium, and low ambient air impact (X/ATV). Each of these subgroups was then split into two subdivisions: movable and nonmovable. Finally, within each of the 18 resulting subdivisions, source categories were ranked in order of emission prevention potential $(T_S - T_N)$, from highest to lowest. Priority was given to high $(T_S - T_N)$, high X/ATV, and movability, so that a prioritized listing of these subdivisions is as follows, with highest priority first:

(1) High $(T_S - T_N)$, high X/ATV, movable.
(2) High $(T_S - T_N)$, high X/ATV, nonmovable.
(3) High $(T_S - T_N)$, medium X/ATV, movable.
(4) High $(T_S - T_N)$, medium X/ATV, nonmovable.
(5) High $(T_S - T_N)$, low X/ATV, movable.
(6) High $(T_S - T_N)$, low X/ATV, nonmovable.
(7) Medium $(T_S - T_N)$, high X/ATV, movable.
(8) Medium $(T_S - T_N)$, high X/ATV, nonmovable.
(9) Medium $(T_S - T_N)$, medium X/ATV, movable.
(10) Medium $(T_S - T_N)$, medium X/ATV, nonmovable.
(11) Medium $(T_S - T_N)$, low X/ATV, movable.
(12) Medium $(T_S - T_N)$, low X/ATV, nonmovable.
(13) Low $(T_S - T_N)$, high X/ATV, movable.
(14) Low $(T_S - T_N)$, high X/ATV, nonmovable.

(15) Low (T_S-T_N), medium X/ATV, movable.
(16) Low (T_S-T_N), medium X/ATV, nonmovable.
(17) Low (T_S-T_N), low X/ATV, movable.
(18) Low (T_S-T_N), low X/ATV, nonmovable.

This provides a separate priority ranking for each pollutant. Developing a combined multipollutant priority list requires the selection of pollutant goals.

A computer program was written to calculate 1990 emissions from each source/pollutant combination, then determine which 1990 pollutant estimate was furthest from its goal. This became the priority pollutant, and the top priority source category from that pollutant list was selected and an NSPS (E_N level of emissions) assumed for new sources in that category from that time on. It was assumed that NSPS were promulgated at the same time for any other pollutants emitted from that source category. The computer program then recalculates 1990 emissions, selects the new priority pollutant, and repeats the selection procedure. A standard-setting rate was assumed that, beginning in 1980, results in the promulgation by the end of 1982 of NSPS for all the source categories listed. The resulting list can be found in the background report (Table 3-12, p. 113), and is the basis for the listing of major source categories that appears in this notice.

The goals for PM, SO_2, NO_x, HC, and Pb were determined by assuming all NSPS are promulgated in 1980 and then calculating 1990 emissions based on NSPS control of all new sources during that 10-year period. For SO_2 and NO_x, emissions will still increase, but for PM, HC, and Pb, 1990 emissions would be lower than 1980 emissions despite growth. Although EPA cannot set all NSPS in 1980, the emission changes that result from such an assumption provide reasonable goals to aim for.

These goals are summarized below:

Pollutant	1990 emission without NSPS,* percent change from 1980 emissions	1990 goal percent change from 1980 emissions**
Particulate matter (PM)	+30	−5
Sulfur dioxide (SO_2)	+20	+10
Nitrogen oxides (NO_x)	+55	+20
Hydrocarbons (HC)	+70	−30
Lead (Pb)	+55	−20

*Does not take into account emission reductions that will accrue from State Implementation Plan revisions or New Source Review decisions (including prevention of significant deterioration and emission offsets).
**Determined by assuming that all NSPS are effective in 1980 and apply to all new sources constructed during the 10-year period 1980-90.

For the other pollutants (CO, AM, H_2S, and F), 1990 emissions would be lower than 1980 emissions if all NSPS were set in 1980, but these reductions are of lower priority than those listed in the preceding paragraph. The lower priority is based on prior EPA policy. AM, H_2S, and F are not regulated by National Ambient Air Quality Standards (NAAQS), and are considered lower priority than NAAQS or criteria pollutants. Although CO is a criteria pollutant, CO from stationary sources has not been considered a priority concern; emphasis has instead been on emissions from vehicles. Therefore, a 1990 goal of no increase over 1980 emissions was selected, which in effect deemphasizes CO, AM, H_2S, and F.

The goals calculated for these pollutants, based on the change in emission levels between 1980 and 1990, are shown below:

Pollutant	1990 emissions without NSPS,* percent change from 1980 emissions	1990 goal, percent change from 1980 emissions
Carbon monoxide (CO)	+30	**0
Acid mist (AM)	+135	**0
Hydrogen sulfide (H_2S)	+30	**0
Fluorides (F)	+35	**0

*Does not take into account emission reductions that will accrue from State implementation plan revisions or new source review decisions (including prevention of significant deterioration and emission offsets).
**Setting a goal of 0 percent change has the effect of deemphasizing these pollutants since reductions below 1980 emission levels are possible.

At the beginning of the computer program, the priority pollutant is determined by the difference in tons of emissions per year between the first column (projected 1990 emissions) and the second column (the 1990 emissions goal).

Identification of Source Categories

There are some differences between the list in the background report (table 3-12) and the list which appears below. These differences are primarily a result of aggregation of subcategories which had been subdivided for size classification and priority ranking analysis. Nonmetallic mineral mining, for example, is composed of nine subcategories, eight of which were analyzed separately (stone, sand and gravel, clay, gypsum, lime, borax, fluorspar, and phosphate rock mining) and one of which is considered a minor source (mica mining). EPA plans to study the entire non-metallic mining industry at one time, since many of the processes and control techniques are similar. For this reason, the industry is identified by a single listing. This does not necessarily imply that a single standard would apply to all sources within the listed category. Rather, as described below in the case of synthetic organic chemical manufacturing, the nature and scope of standards will be determined only after a detailed study of sources within the category.

Also, in addition to the major sources, three source categories not identified as being major source categories have been added to the list—organic solvent degreasing, industrial surface coating: metal furniture, and lead acid battery manufacture.

Organic solvent degreasing was chosen for study because this source category accounts for some 5 percent of stationary source emissions in a typical air quality control region. Thus, although individual facilities typically emit less than 100 TPY, this is a significant source of organic emissions and EPA considers it prudent to continue the development of a standard for this source category.

The metal furniture coating industry is also a significant source of organic emissions, and there are over 300 existing facilities with the potential to emit more than 100 TPY. For this reason, EPA has placed this source category on the list.

Lead acid battery manufacture is a significant source of lead emissions. An NSPS for this source category is expected to assist in attainment of the proposed National Ambient Air Quality Standard for lead.

EPA initiated work to develop standards for each of these source categories prior to the 1977 amendments to the CAA and plans to continue work on them. Interrupting work on these categories is not considered justified, as this would require that a significant amount of work be repeated.

One listed source category which deserves special attention is the synthetic organic chemical manufacturing industry (SOCMI). Preliminary estimates indicate that there may be over 600 different processes included in this source category, but only 27 of these processes have been evaluated and priority-ranked. For the other 575, there was not enough information available. As is the case with several other aggregate source categories, EPA expects to use generic standards to cover as many of the 600 processes as possible, so separate NSPS for each process are unlikely. Based on an effort which has been underway within EPA for 2 years to study this complex source category, the generic standards could regulate nearly all emissions by covering four broad areas: process facilities; storage facilities; leakage; and transport and handling losses. Also, since a number of the pollutants emitted are potentially toxic or carcinogenic, regulation under section 112, national emission standards for hazardous air pollutants

(NESHAP) rather than NSPS may be more appropriate. Therefore, SOCMI is listed as a single source category. The 27 processes evaluated are considered the most likely candidates for NSPS or NESHAP coverage through generic standards, and are listed below:

Acrylonitrile Plants.
Acetic Acid Plants.
Acrylic Acid.
Acetic Anhydride Plants.
Cyclohexane Plants.
Cyclohexanol/Cyclohexanone Plants.
Dimethyl Terephthalate Plants.
Ethylene Dichloride Plants.
Ethylene Oxide Plants.
Ethylbenzene Plants.
Ethylene Plants.
Ethylene Glycol Plants.
Formaldehyde Plants.
Maleic Anhydride Plants.
Methanol Plants.
Methyl Methacrylate Plants.
Phenol Plants.
Propylene Oxide Plants.
Terephthalic Acid Plants.
Vinyl Acetate Plants.
Phthalic Anhydride (PAN) Plants.
Acetone Plants.
Carbon Tetrachloride Plants.
Adipic Acid Plants.
Methyl Chloroform Plants.
Styrene Plants.
Allyl Chloride Plants.

Additional information has resulted in the exclusion from the list of some source categories which are shown in the background report. Mixed fuel boilers and feed and grain milling are regulated by the NSPS for fossil-fuel steam generators and grain elevators, respectively. Beer manufacture has a much lower emission level than had been assumed in the background report, and whiskey manufacture was deleted due to a lack of any demonstrated control technology.

Public Participation

The CAA requires that EPA, prior to promulgating this list of source categories, consult with Governors and State air pollution control agencies. An invitation was extended on February 28, 1978, to the State and Territorial Air Pollution Program Administrators (STAPPA) and the National Governors' Association (NGA) to attend the first Working Group meeting, March 16, 1978, and review the draft background report and the methods used to apply the criteria. On March 24, 1978, EPA notified each Governor and the director of each State air pollution control agency by letter of this project, inviting them to participate and/or comment:

(1) At the April 5-6, 1978, National Air Pollution Control Techniques Advisory Committee NAPCTAC) meeting in Alexandria, Va.;

(2) When the final background report was mailed to them;

(3) When the list is proposed in the Federal Register; or

(4) At a public hearing to be held on the proposed list.

The draft background report was mailed to all NAPCTAC members, five of which represent State or local agencies, two of which represent environmental groups, and eight of which represent industry. Copies were mailed to six environmental groups and three consumer groups at the same time, and to a representative of the NGA.

Copies of the final report were sent to the Governors, State, and local air pollution control agencies, NAPCTAC members, environmental groups, the NGA, and other requesters in early July.

A public hearing will be held to discuss the proposed priority list in accordance with section 111(g)(8) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address above. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to Mr. Gary D. McCutchen at the address above.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours in Washington, D.C., at the U.S. Environmental Protection Agency's Public Information Reference Unit (address same as above).

Note that application for revision of the list at any time by a Governor is specifically permitted in section 111(g). EPA must evaluate an application within 90 days, explain why an application is not accepted, and implement acceptable applications following a public hearing on the proposed action. Applications relating to NSPS may be to (1) add a major source category to the list, (2) add a source category to the list, whether major or minor, if it has the potential to endanger health or welfare, (3) revise priorities if the criteria specified in the Act have not been properly applied, or (4) revise a promulgated NSPS that no longer reflects best control technology.

Development of Standards

When the list of source categories is promulgated in the Federal Register, EPA will undertake a program to promulgate standards for those source categories by August 7, 1982. EPA has already initiated the development of standards for nearly half of the source categories listed; work on the remaining source categories will be initiated within the next 2 years.

It should be pointed out that several of the source categories listed could be subject to standards which may be adopted under section 112 of the Clean Air Act (national emission standards for hazardous air pollutants or NESHAP). Included are byproduct coke ovens and several source categories within the petroleum transport and marketing industry. If standards are developed under section 112 for these or any other source categories on the list being proposed today, then standards would not be developed for those source categories under section 111.

The priority ranking is indicated by the number to the left of each source category and will be used to decide the order in which new projects are initiated, although this is not necessarily an indication of the order in which projects will be completed. In fact, higher priority source categories often present difficult technical and regulatory problems, and may be among the later source categories for which standards are promulgated.

It should be noted also that the source categories identified on this proposed list are not subject to the provisions of section 111(b)(1)(B) which would require proposal 120 days after adoption of the list. Rather, the promulgation of standards for sources contained on the list being proposed here will be undertaken in accordance with the time schedule prescribed in section 111(f)(1) of the Clean Air Act amendments. That is, 25 percent are to be promulgated by August 1980, 75 percent by August 1981, and all of the standards by August 1982.

Dated: August 24, 1978.

Douglas M. Costle,
Administrator.

It is proposed to amend Part 60 of Chapter I of Title 40 of the Code of Federal Regulations by adding § 60.16 to Subpart A as follows:

§ 60.16 Priority List.

Priority number [2]	
	Stationary Fuel Combustion
16.	Fossil-fuel-fired steam generators: Industrial boilers.
14.	Stationary internal combustion engines.
	Metallurgical Processes
10.	By-product coke ovens.
23.	Foundries: Grey iron.
41.	Foundries: Steel.
42.	Secondary aluminum.
20.	Secondary copper.
66.	Secondary zinc.
67.	Uranium refining.
	Mineral Products
57.	Asphalt roofing.

[2] Low numbers have highest priority; e.g., No. 1 is high priority, No. 72 is low priority.

49. Brick and related clay products.
60. Castable refractories.
58. Ceramic clay.
48. Fiberglass.
38. Glass.
45. Gypsum.
19. Metallic mineral processing.
13. Mineral wool.
18. Non-metallic mineral processing.
64. Perlite.
21. Phosphate rock preparation.
43. Sintering: Clay and flyash.

POLYMERS AND RESINS

54. Polymers and resins: ABS-SAN resins.
12. Polymers and resins: Acrylic resins.
50. Polymers and resins: Phenolic resins.
62. Polymers and resins: Polyester resins.
30. Polymers and resins: Polyethylene.
55. Polymers and resins: Polypropylene.
53. Polymers and resins: Polystyrene.
51. Polymers and resins: Urea-melamine resins.

FOOD AND AGRICULTURAL

68. Alfalfa dehydrating.
44. Ammonium sulfate.
59. Ammonium nitrate fertilizer.
69. Animal feed defluorination.
63. Starch.
70. Urea (for fertilizer and polymers).
27. Vegetable oil.

WASTE INCINERATION

11. Incineration: Industrial-commercial.

BASIC CHEMICAL MANUFACTURE

1. Synthetic Organic Chemical Manufacturing.
61. Borax and boric acid.
47. Hydrofluoric acid.
65. Phosphoric acid: Thermal process.
40. Potash.
46. Sodium carbonate.

CHEMICAL PRODUCTS MANUFACTURE

52. Ammonia.
2. Carbon black.
31. Charcoal.
71. Detergent.
17. Explosives.
7. Fuel conversion.
34. Printing ink.
35. Synthetic fibers.
28. Synthetic rubber.
29. Varnish.

EVAPORATIVE LOSS SOURCES

6. Dry cleaning.
9. Graphic arts.
15. Industrial surface coating: Automobiles.
3. Industrial surface coating: Cans.
8. Industrial surface coating: Fabric.
37. Industrial surface coating: Large appliances.
32. Industrial surface coating: Metal coil.
5. Industrial surface coating: Paper.

PETROLEUM INDUSTRY

25. Crude oil and natural gas production.
72. Gasoline additives.
4. Petroleum refinery: Fugitive sources.
33. Transportation and marketing.

WOOD PROCESSING

24. Chemical wood pulping: Acid sulfite.
22. Chemical wood pulping: Neutral sulfite (NSSC).
36. Plywood manufacture.

CONSUMER PRODUCTS

56. Textile processing.

MINOR SOURCE CATEGORIES

Lead acid battery manufacture. [1]
Solvent metal cleaning (degreasing). [1]
Industrial surface coating: metal furniture. [1]

AUTHORITY: Section 111 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601).

[FR Doc. 78-24441 Filed 8-30-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 450]

MEDICAL ASSISTANCE PROGRAMS

Reimbursement for Eyeglasses and Hearing Aids

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of intent to regulate.

SUMMARY: This notice asks for suggestions on how to lower the cost and improve the quality of eyeglasses and hearing aids paid for under State medicaid programs (medical assistance, title XIX of the Social Security Act). Current regulations establish "customary charges which are reasonable" as the upper limit for payment for eyeglasses and hearing aids. The Department is considering whether to require use of volume purchasing or maximum allowable cost.

DATES: Closing date for receipt of comments October 16, 1978. Please refer to MMB-217-NI. Agencies and organizations are requested to submit comments in duplicate.

ADDRESS: Comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. Beginning 2 weeks from today, the public may review the comments on Monday through Friday of each week, from 8:30 a.m. to 5 p.m. in room 5225 of the Department's offices at 330 C Street SW., Washington, D.C. 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Henry Spiegelblatt, 202-245-0398.

SUPPLEMENTARY INFORMATION:

BACKGROUND

During the past decade the Department of Health, Education, and Welfare, the Federal Trade Commission, the U.S. Congress, and several consumer groups have investigated the production and delivery systems for eyeglasses and hearing aids. All have concluded that prices are often unreasonably high, which makes it difficult for many people who need these devices to get them. A comprehensive discussion of the history and problems surrounding the production and distribution of eyeglasses and hearing aids may be obtained by writing to the Medicaid Bureau, Health Care Financing Administration, 330 C Street SW., Washington, D.C. 20201. Following is a brief discussion of State experience and of studies of reimbursement practices.

PRESENT COVERAGE AND REIMBURSEMENT POLICIES

Provision of eyeglasses and hearing aids for medicaid recipients is optional, except that these devices, as well as other vision and hearing services, must be provided by all States to eligible children under the early and periodic screening, diagnosis and treatment (EPSDT) program. Most States also provide special eyeglasses or contact lenses to medicaid patients following cataract surgery.

Currently 33 States, Guam, and the Virgin Islands provide eyeglasses, and 27 States, Guam, and the Virgin Islands provide hearing aids. However, increasing State medicaid budgets have recently forced a few States to drop these optional services. Unless costs can be reduced, other States may also be forced to drop them.

Current regulations at 42 CFR 450.30(b)(4) define *customary charges which are reasonable* as "the prevailing charges in the locality for comparable services under comparable circumstances". Since medicare and most third-party insurers do not pay for hearing aids, and medicare pays only for special eyeglasses, there are insufficient data about prices available for comparison.

Based on investigations of the eyeglasses and hearing aid production and

[1] Not prioritized, but included on list. See explanation in preamble.

delivery systems, and on reviews of State medicaid reimbursement practices, the Department has reason to believe that the current upper limit does not assure that payment for these items will not exceed "reasonable charges consistent with efficiency, economy, and quality of care", as required by section 1902(a)(30) of the Social Security Act.

Reimbursement Practices—Eyeglasses

Most States pay the customary charges prevailing in the community. However, at least 14 States have set maximum allowable cost fee schedules; at least 5 States pay the lower of the provider's usual and customary charges and the maximum amounts allowed in State-set fee schedules; and at least 3 States purchase directly from manufacturers.

As an example, the Washington medicaid program purchases eyeglasses directly from the manufacturer and has them dispensed through participating ophthalmologists and optometrists. The State lets a single, statewide bid contract for the provision of all ordinary lenses, frames, and cases. All prescriptions are forwarded by the dispenser to the contractor, who is responsbile for delivering the finished article to the dispensing practitioner or clinic. The contractor bills the State directly once a month at the prices contained in the contract. The manufacturer also supplies the State with a monthly account of services provided, which serves as a utilization report. For items not purchased under contract (cataract lenses, miscellaneous parts, and repairs), reimbursement is based on actual provider cost plus a dispensing fee. Washington estimates that volume purchasing saved about $96,000, on total expensitures of $362,292, during the first year of the contract.

State Reimbursement Practices—Hearing Aids

At least 20 States reimburse for hearing aids at customary charges. Several States pay the lower of customary charges and State-set maximum amounts; and a few States pay according to a State-set fee schedule. Other States use a variety of other methods.

Volume Purchasing Experience—Other Agencies

VETERANS ADMINISTRATION

While the retail price of most hearing aids is about $300 to $450, the VA, through volume purchasing and use of its own distribution system, has been able to provide hearing aids for about $200 each. To insure quality, the VA obtains recommendations from the Bureau of Standards.

For eyeglasses, the VA spends an average of $11 for single vision glasses with frames and case and $15 for bifocals with frames and case. This is less than half the price for identical glasses on the open market.

DEPARTMENT OF DEFENSE

The DOD has a contract to buy semifinished lenses from optical manufacturers, and fabricates finished eyeglasses at its own laboratories. DOD estimates final cost at $7 to $8 a pair.

STATE OF MICHIGAN

Another example of the lower costs that result from volume contract arrangements is the group purchasing plan operated for employees of the State of Michigan. They purchase glasses under contract for about $14, compare to average retail prices of about $35. Two consumer cooperatives in Michigan purchase hearing aids and eyeglasses in volume, at significantly lower cost.

Contract Study

EYEGLASSES

A study of medicaid reimbursement practices for eyeglasses in five States showed that:

(1) Services and product fees for eyeglasses vary substantially from State to State, but there seems to be no single reason for the large variation.

(2) Maximum allowable cost (MAC) limits take advantage of wholesale costs but not of the still lower costs available from manufacturers.

(3) In some States, dispensing fees are not fixed. This allows providers to supply very low cost, poor quality equipment and to charge higher fees to reach the combined maximum allowed for eyeware and fees.

(4) Fee schedules for ophthalmologists and optometrists are set in numerous ways and are not substantiated as valid reflections of services rendered.

CONTRACTOR'S RECOMMENDATIONS

(1) Consider use of volume purchase arrangements for all medicaid programs. This arrangement saves considerable money by taking advantage of lower costs available through direct purchases from manufacturers. It also helps guarantee the quality of eyeware purchased.

(2) Establish a single fixed dispensing fee for corrective lenses and frames to eliminate any over charges by providers.

(3) Undertake further study to determine suitable fees for professional services.

HEARING AIDS

The study shows that:

(1) The cost of hearing aids does not vary significantly among the States. In all cases, the average total reimbursement for a hearing examination and a hearing aid was between $300 to $350. Payments for hearing aid equipment alone averaged between $258 and $325.

(2) Reimbursement policies usually do not differentiate cost of equipment from cost of dealer services. This hinders rational and prudent cost limits.

(3) Reimbursement is not limited to actual services but allows additional and extraneous charges.

(4) The quality of hearing aids is open to serious question, and medicaid has no effective means of assuring quality.

(5) Otological or audiological examinations are not always given. (Note, however, that new Food and Drug Administration regulations require medical evaluations for all hearing aid sales except that an adult purchaser can refuse the evaluation.)

CONTRACTOR'S RECOMMENDATIONS

(1) Separate dealers fees from the cost of the device.

(2) Establish fixed dealers fees that cover only the services necessary in providing a hearing aid.

(3) Specifically define hearing aids approved for reimbursement, using the results of the VA's study of quality and cost effectiveness.

(4) Set maximum reimbursement at the level of manufacturer's selling price to dealers.

(5) Establish policies and standards for the medical and audiological examination necessary before dispensing a hearing aid.

(6) Implement specific procedures codes for professional services related to testing for hearing aids.

Overall Conclusions—Eyeglasses

VOLUME PURCHASING VERSUS MAXIMUM ALLOWABLE COST

The contractor concluded that volume purchasing is superior to maximum allowable cost.

Maximum allowable cost is usually based on wholesale prices and thus includes the markup between manufacturer and wholesaler. Furthermore it cannot assure quality as well as volume purchasing can.

Medicaid programs can specify the quality of eyeglasses, but in practice the recipient may not be receiving what the State specifies. Providers can charge the maximum applicable to top quality eyeglasses, while in fact purchasing or producing eyeglasses at much lower prices. This is especially true in the case of large volume eye-

glass providers and those who own their own optical laboratories.

The basic cost of unfinished lenses runs between $2 and $3; wholesale prices of finished lenses increase substantially to $7 and up; the retail prices add further markups. Volume purchasing eliminates all the markups by purchasing at the earliest point in the distribution chain, the manufacturers.

The volume purchase approach also makes it easier to assure quality, and simplified administration. With a single supplier, or a few, quality can be more easily monitored, as illustrated by the VA program. Administrative tasks are reduced to preparing the solicitation, setting the contract, and reviewing the supplier's merchandise. The supplier provided most of the utilization and financial reporting information.

Maximum allowable cost reimbursement requires much more information processing and monitoring, because prices have to be continually updated and claims have to be reviewed.

The biggest potential drawback of volume purchasing is that some dispensers who specialize in serving the medicaid population could lose money and thus be severely hurt, and some providers might drop out of the program. There could be pressure to raise professional fees. On the other hand, since total medicaid expenditures for eyeglasses are only a small part of the total market, few providers would be significantly affected by lower medicaid reimbursements. Savings from volume purchasing might allow States to increase dispensing fees to prevent drops in provider participation.

FIXED DISPENSING FEES FOR EYEGLASSES

If limits are imposed only on the cost of frames and lenses, some dispensers tend to supply cheap frames and charge the maximum amount allowed by increasing their dispensing fees. Separating dispensing fees from costs of lenses and frames would take care of this problem. The fixed dispensing fee eliminates fees tied to a percentage of the cost of the eyeglasses, and removes the incentive for the despenser to charge for other services.

OVERALL CONCLUSIONS AND ADDITIONAL RECOMMENDATIONS—HEARING AIDS

MAXIMUN ALLOWABLE COST REIMBURSEMENT

Under the MAC system, the State would pay the lower of (1) the acquisition cost of the device plus a professional dispensing fee and (2) the provider's usual and customary charge to the general public.

In applying the MAC approach to hearing aids, the medicaid contractor made several recommendations regarding the setting of separate service fees and product costs:

1. PROFESSIONAL SERVICE FEES

The contractor recommended that medical and audiological examination be required before reimbursing for a hearing aid. Specific procedures codes and reimbursement rates would be applicable to a process that includes an initial medical examination, audiological tests for fitting the aid, and follow-up to evaluate effectiveness.

Fees for hearing aid-related testing would be substantially lower than those for comprehensive otological examinations and audiological testing. In States that do not currently require these examinations, the inflared testing costs would be controlled and unwarranted procedures eliminated.

2. PRODUCT COST AND DEALER FEES

Some States set maximums on total hearing aid cost but do not limit the dealer's fee except within the overall maximum; other States limit the dealer's fee but do not control the reimbursement for equipment. By not controlling both dealers fees and product costs, medicaid programs may be paying for services that recipients do not need.

Studies done in California and Michigan indicate that average dealer expenses for sale of a hearing aid are about $100. This figure allows a number of expenses unrelated to simply supplying the aid. Discount dealers can sell hearing aids for 40 to 50 percent less than average retail prices, because they do not supply or charge for anything but ordering and fitting. This suggests that dealer fees under medicaid can be more tightly controlled.

In States that limit the dealer's fees but not the price of the aid, a dealer can supply and charge for a higher-priced aid when a cheaper model would suffice. Overall maximums often are set high enough to cover several kinds of aids. Thus, it is possible for a dealer to supply, for example, a medium power, in-the-ear aid with a high suggested retail price when other, less expensive models could fit the need.

In light of these considerations, the medicaid contractor recommended that the price of equipment be separated from the dealer's fee. The latter would be based on actual expenses in supplying the aid to a medicaid recipient, not in supplying the general public.

3. PRODUCT COST AND QUALITY

The contractor suggested that equipment cost and quality be tied together. States could provide only for those categories of hearing aids with better-than-average performance scores in the VA tests, and set maximum reimbursement based on manufacturers suggested wholesale price. Within each category, reimbursement could be limited to those particular aids that have both high performance test scores and low prices, that is, the most cost effective.

4. DISTRIBUTION PROBLEM

The major drawback to the MAC approach is that it might limit availability and accessibility. Dealers who do not sell any of the approved aids would be eliminated as suppliers. Other dealers might choose not to participate because of these controls or because of manufacturers pressures. Recipients might have to travel to obtain the specific aid prescribed, or they might not know where to go to obtain it.

However, these problems could be handled. A loss of dealers might require some adjustments in the approved list of aids. Travel by recipients does not appear to be a major problem, and lists of appropriate suppliers could be made available to recipients.

5. ADVANTAGES OF MAXIMUM ALLOWABLE COST REIMBURSEMENT OVER CURRENT STATE POLICIES

The contractor concluded that the MAC approach could save money and assure better quality equipment for recipients. It would directly control dealer fees, limiting them to reasonable charges for services rendered. It would set a specific maximum cost for each hearing aid and reimburse only for specific cost-effective aids. It would provide guarantees that only high quality aids with reasonable prices would be dispensed. The cost of an initial study and surveys would not be large, and administration would not be affected except for the need to update lists of approved aids and where they may be obtained.

The possibility of direct purchase from hearing aid manufacturers is worth exploring. The State could estimate the approximate number of purchases and request bids for specified aids to be ordered on an "as needed" basis. The key question is whether the State could thus obtain the device at a price lower than that charged by dispensers.

SUMMARY

The foregoing discussion is meant to serve as a stimulus for comments and suggestions from interested parties, including State medicaid agencies, medicaid recipients, consumer groups, hearing aid dispensers, trade associations, manufacturers, audiologists, physicians, and other government agencies. The goal is to find practical ways to lower the cost and improve

the quality of eyeglasses and hearing aids provided to medicaid recipients. Since volume purchasing and maximum allowable cost appear to be the best alternatives to current policy, the comments on these approaches will be closely examined to determine the feasibility of requiring them in all States.

The Department's maternal and child health, crippled children's, Indian health and rehabilitation services programs also provide eyeglasses and hearing aids to persons eligible for these programs. The medicare program only provides special eyeglasses to beneficiaries following cataract surgery or treatment for other eye pathology. Comments about payments made and reimbursement methods used under these programs are also welcome.

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

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: October 27, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administrator.

Approved: August 16, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-23839 Filed 8-30-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Gen. Docket No. 78-167]

POLICIES AND PROCEDURES REGARDING EX PARTE COMMUNICATIONS DURING INFORMAL RULEMAKING PROCEEDINGS

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Commission has before it a letter from Allen R. Frischkorn, Jr. of the Federal Communications Bar Association, requesting an extension of time within which to file reply comments in the docket relating to policies and procedures regarding ex parte communications during informal rulemaking proceedings (43 FR 32832, July 28, 1978). It appears that over a dozen parties have filed comments in this proceeding; that some of the comments are quite lengthy; that at least one party filed late comments; and that other parties may also file late comments. Accordingly, the requested extension of time would be in the public interest.

DATE: Time for filing reply comments extended to September 6, 1978.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Keith H. Fagan, Office of General Counsel, 202-632-7112.

Adopted: August 22, 1978.

Released: August 23, 1978.

It is ordered, Therefore, that the time for filing reply comments in this proceeding is extended from August 23, 1978, to September 6, 1978.

Action taken pursuant to delegated authority. See § 0.251 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
DANIEL M. ARMSTRONG,
Acting General Counsel.

[FR Doc. 78-24586 Filed 8-30-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR Ch. 1]

FEDERAL ACQUISITION REGULATION PROJECT

Availability and Request for Comment on Draft Regulation

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability and request for comment on draft regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR). Additional segments will be announced for availability and comment on later dates. The regulation is being developed to replace the current system of procurement regulations. It will be a single uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds.

DATE: Comments must be received on or before October 31, 1978.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William W. Thybony, Assistant Administrator for Regulations, 726 Jackson Place NW., Room 5002, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

William Maraist, 202-395-4946, or Strat Valakis, 202-395-3563.

SUPPLEMENTARY INFORMATION: The fundmental purpose of the FAR is to reduce the proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear, and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following segment of the draft Federal Acquisition Regulation is available for public and Government agency review and comment.[1]

TABLE OF CONTENTS

PART 14—FORMAL ADVERTISING

Sec.
14.000 Scope of Part.
14.1 Use of Formal Advertising.
14.2 Solicitation of Bids.
14.3 Submission of Bids.
14.4 Opening of Bids and Award of Contract.
14.5 Two-Step Formal Advertising.

TABLE OF CONTENTS

PART 15—CONTRACTING BY NEGOTIATION

Sec.
15.000 Scope of Part.
15.1 General Requirements for Negotiation.
15.2 Negotiation Authorities.
15.3 Determination and findings.

Part 14 describes the method of contracting known as Formal Advertising.

14.000 Scope of Part—is a summary of material topics covered within the part.

14.1 Use of Formal Advertising—sets out the policy and procedures for use of the method. It states the elements required, the authorities, and policy, both general and specific, that apply.

14.2 Solicitation of Bids—addresses the preparation of invitation packages, general rules, and methods applicable to the solicitation process. It covers bidder mailing lists, solicitation amendments, cancellation before award, and pre-bid conferences.

14.3 Submission of Bids—describes rules of submission, responsiveness, and timeliness, also the handling of late bids, bid modifications, and withdrawals.

14.4 Opening of Bids and Award of Contract—provides procedures for the receipt, handling, and disposition of bids, and the subsequent award of contract.

14.5 Two-Step Formal Advertising—contains the procedures for con-

[1] A copy of the draft regulations is filed with the Office of the Federal Register as part of the original document.

tracting by using an alternative method to classical formal advertising when, for example, adequate specifications are not available.

Part 15 prescribes the policies and procedures governing the method of contracting known as negotiation.

15.1 General Requirements for Negotiation—defines negotiation, then covers use of the method, need for approvals, and the role of competition.

15.2 Negotiation Authorities—provides statutory citations and explanations in terms of application and limitation of the exceptions to the general requirement for formal advertising.

15.3 Determination and Findings—defines the two terms, and discusses their use and application for justifying negotiations in lieu of formal advertising. Non-negotiation related use of Determination and Findings is left for discussion with the appropriate subject matter elsewhere in the regulation.

The material in the Defense Acquisition Regulation (DAR) under Appendix J, which provides examples of Determination and Findings, has been omitted from FAR coverage.

Although DAR policy related to negotiation after advertising is adopted for Government-wide application, no wholly new policy is presented in this segment.

Parties interested in reviewing and commenting on this FAR segment may obtain a copy by writing to: Mr. William W. Thybony, Assistant Administrator for Regulations, 726 Jackson Place NW., Room 5002, Washington, D.C. 20503, telephone 202-395-4946. Comments must be received no later than October 31, 1978.

Dated: August 25, 1978.

WILLIAM W. THYBONY,
Assistant Administrator for Regulations.

[FR Doc. 78-24647 Filed 8-30-78; 8:45 am]

[4910-62]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[49 CFR Part 27]

[OST Docket No. 56: Notice No. 78-9]

NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Public Hearings

AGENCY: Department of Transportation (DOT).

ACTION: Notice of acceptance of applications to testify at public hearings.

SUMMARY: This notice announces that the Department of Transportation will honor, to the extent possible, late-filed applications to testify at the public hearings to be held on the Department's Notice of Proposed Rulemaking implementing section 504 of the Rehabilitation Act of 1973.

DATES AND ADDRESSES: See supplementary information.

FOR FURTHER INFORMATION CONTACT:

Richard Clark, Office of Regulation and Enforcement, U.S. Department of Transportation, Washington, D.C. 20590, 202-426-4723.

SUPPLEMENTARY INFORMATION: On June 8, 1978, the Department of Transportation published in the FEDERAL REGISTER (43 FR 25016) a Notice of Proposed Rulemaking (NPRM) to implement section 504 of the Rehabilitation Act of 1973. On August 3, 1978, the Department announced in the FEDERAL REGISTER (43 FR 34171) that five public hearings were scheduled on the section 504 NPRM. As part of that notice, the Department indicated that persons interested in testifying, who had not already submitted their applications, should submit them postmarked not later than August 18.

Due to the number of applications to testify postmarked after this date, the Department hereby notifies the public that, to the extent possible, it will attempt to accommodate late-filed applications. Such applications should continue to be submitted to the following address: Docket Clerk (56A), Room 10421, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4723.

The Department encourages those interested persons whose late-filed applications cannot be accommodated to submit their comments to docket No. 56, Room 10421, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, by October 20, 1978.

Issued in Washington, D.C., on August 29, 1978.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc. 78-24679 Filed 8-30-78; 8:45 am]

notices

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

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation Number A649]

KANSAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Kansas counties as a result of rain, hail, high winds, and tornadoes July 6, 1978, in Clark County and severe winds, rainfall, and hail June 25, 1978, in Smith County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Gov. Robert F. Bennett that such designation be made.

Applications for emergency loans must be received by this Department no later than February 20, 1979, for physical losses and August 23, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 28th day of August 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-24630 Filed 8-30-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 31699, 33275; Order 78-8-122]

BRANIFF AIRWAYS, INC. AND NEW ORLEANS-WEST SERVICE INVESTIGATION

Order Instituting Investigation Regarding Removal Of A Single-Plane Restriction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of August 1978.

On November 16, 1977, Braniff filed an application and a petition for an order to show cause why condition 18(a) of its certificate for Route 9 should not be amended to permit single-plane service between New Orleans, on the one hand, and Amarillo, Denver, Lubbock, Oklahoma City, Portland, Seattle, and Wichita, on the other.[1] In support of its petition, Braniff states that: (1) Removal of the restriction will reduce the elapsed time for passengers in the New Orleans markets in which Braniff proposes service; and (2) the basis for imposing the restriction—to maintain the competitive balance established in the two *Pacific Northwest-Southwest* cases [2]—is no longer valid, as is demonstrated by 8 years of experience in the New Orleans markets in question.

Answers in opposition to Braniff's petition were filed by Continental and Texas International Airlines (TXI). Continental alleges that: (1) grant to Braniff of one-stop authority via Dallas/Ft. Worth, a stronger and less circuitous intermediate point for Braniff than Houston is for Continental, would divert traffic from Continental and impair its ability to maintain service in the Dallas/Ft. Worth-New Orleans market, as well as along the Pacific Northwest-Southwest route, which depends on Dallas/Ft. Worth-New Orleans traffic flows; (2) the New Orleans markets in Braniff's application are well-served for their size; (3) Braniff's claimed public benefits are more than offset by a loss of service in other New Orleans markets that it serves, e.g., New Orleans-Kansas City/Omaha/Minneapolis/St. Paul; and (4) if the Board decides to issue a show cause order, Continental requests unrestricted turnaround authority on one-stop flights operated via Houston in the New Orleans-Denver/Oklahoma City markets, nonstop authority in the New Orleans-Dallas/Ft. Worth market (restricted to flights also serving Portland, Seattle, Wichita, or Lubbock), or, alternatively, authority to serve (a) Houston and San Antonio on flights in the Dallas/Ft. Worth-Pacific Northest markets and (b) San Antonio on flights in the Houston-Pacific Northwest markets.

TXI opposes Braniff's petition to the extent that it requests single-plane authority in the New Orleans-Denver/Amarillo/Lubbock markets, contending that: (1) TXI might not be able to compete effectively with Continental because it would be unable to maintain traffic flows via intermediate points, especially in the New Orleans-Denver market, and the loss of revenue would increase TXI's subsidy need; and (2) the traveling public will be hurt because Braniff's service will be reduced in markets beyond Dallas/Ft. Worth for a superfluous number of one-stop flights in the New Orleans-Denver market.

Northwest filed an answer stating that it has no *per se* objection to Braniff's petition, but that the Board should not issue a show cause order until it acts on Northwest's Subpart N application in Docket 30233 for nonstop Seattle-Atlanta/Tampa/Miami/Ft. Lauderdale authority.[3]

Answers in support of Braniff's petition were filed by the Wichita Parties [4] and New Orleans.

Delta filed a reply to Continental's answer, accompanied by a motion for leave to file an otherwise unauthor-

[1] Condition 18(a) reads as follows: "On flights over segment 10 which serve Dallas-Ft. Worth, Tex., the holder shall not provide single-plane service between New Orleans, La., on the one hand, and Portland, Oreg., Seattle-Tacoma, Wash., Denver, Colo., Wichita, Kans., Oklahoma City, Okla., or Amarillo or Lubbock, Tex., on the other hand."

[2] *Pacific Northwest-Southwest Service Investigation*, 46 C.A.B. 652 (1967); *Reopened Pacific Northwest-Southwest Service Investigation*, 50 C.A.B. 698 (1969).

[3] By Order 78-1-104, January 24, 1978, the Board set down for futher proceedings the Seattle-Atlanta authority requested by Northwest and dismissed the remainder of Norhtwest's application.

[4] City of Wichita, Kansas, and the Wichita Area Chamber of Commerce.

ized document.[5] It argues that Continental's effort to obtain New Orleans-Dallas/Ft. Worth nonstop authority as a quid pro quo for granting Braniff's application is inappropriate for show cause procedures.

Braniff filed a motion for leave to file and a reply to the answers of Continental, Northwest, TXI, and New Orleans.[6]

We have decided to institute the *New Orleans-West Service Investigation,* Docket 33275, to consider the need for new or additional service between New Orleans, on the one hand, and Amarillo, Denver, Lubbock, Oklahoma City, Portland, Seattle, and Wichita, on the other.

As we have made clear in recent decisions (see, *e.g., Service to Oakland Case,* Order 78-4-121), we believe that market forces are more likely to result in optimum service at optimum fares since the market selection process operates continuously and efficiently. We will therefore consider the possible grant of permissive authority to all fit, willing and able applicants, and the extent to which such awards encourage the efficiency, innovation and competition deemed to be in the public interest by section 102 of the Act. In view of this, we are less inclined than we were when we laid down the policy in our order instituting the *Chicago-Albany/Syracuse-Boston Competitive Service Investigation,* Order 77-12-50, to give heavy weight in carrier selection to the offer or failure to offer low prices, since open competition will ensure these offers more effectively than restictive carrier selections based on their promise.

We are therefore concerned about the delay and costs of the evidentiary burdens which traditional carrier-selection cases entail for the parties, the Board and the Board's staff, and particularly with the burden of introducing and evaluating evidence that will be unnecessary if the case results in multiple permissive awards. We invite the parties and the administrative law judge to explore ways of reducing the quantity of required exhibit material, eliminating duplication and superfluous detail, standardizing methodology, and focusing on the significant facts and assumptions. Specifically, we are interested in reducing or eliminating the tremendous amount of detail on schedules, traffic, profitability and diversion typically required to adjudicate the issue of comparative carrier selection. The possibility of stipulating facts and eliminating comparative selection evidence should be carefully explored. In particular, carriers interested in being selected for a market only if multiple, permissive authority is awarded generally should be excused from submitting the full panoply of comparative selection evidence for that market.[7] Further, although low fares naturally will continue to be reflected in any revenue estimates submitted, we are not interested in any detailed comparative examination of the price/quality options arrived at by the various applicants. Ultimately, of course, we leave the resolution of all of these matters to the administrative law judge.

Finally, Braniff has not submitted sufficient information for us to determine the environmental consequences of its requested certificate amendments. Therefore, we will require it to file the information set forth in Part 312 of the Board's Procedural Regulations. We will allow it and all other carriers filing an application in the proceeding 30 days from the date of service of this order to file their environmental evaluations.

Accordingly, it is ordered, that:

1. The petition of Braniff Airways for an order to show cause why its application in Docket 31699 should not be granted be denied;

2. An investigation designated as the *New Orleans-West Service Investigation,* Docket 33275, be instituted under section 204 of the Act and be set for hearing before an administrative law judge at a time and place to be designated later;

3. The investigation instituted by paragraph 2, above, shall consider whether the public convenience and necessity require new or additional service between New Orleans, on the one hand, and Amarillo, Denver, Oklahoma City, Portland, Seattle, and Wichita, on the other hand; if so, which air carrier(s) should be authorized; and whether the new or existing authority should be subject to any terms, conditions, or limitations;

4. Any authority awarded in this investigation shall be ineligible for subsidy;

5. The application of Braniff Airways in Docket 31699 be consolidated into the proceeding instituted by paragraph 2, above;

6. The motions of Braniff Airways and Continental Air Lines for leave to file otherwise unauthorized documents be granted;

7. Braniff Airways, Continental Air Lines, Delta Air Lines, Northwest Airlines, Texas International Airlines, New Orleans, and the Wichita Parties be made parties to this investigation;

8. Applications, amendments to applications, motions to consolidate and petitions for reconsideration of this case shall be filed no later than September 15, 1978, and answers shall be filed no later than September 29, 1978;[8] and

9. All carriers filing applications which they seek to have consolidated into this proceeding shall file environmental evaluations under § 312.12 of the Board's Regulations no later than September 25, 1978.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[9]
Secretary.

[FR Doc. 78-24574 Filed 8-30-78; 8:45 am]

---

[5] We will grant Delta's motion.

[6] We will grant Braniff's motion.

[7] Moreover, for those who wish to pursue a traditional carrier selection theory of the case, detailed cost accounting evidence, *e.g.,* separate estimates for every segment or each type of fare, need not be required to testify the various price and quality proposals. For the Board's purposes, an analysis of profit of any applicant's proposal shall be adequate if the expense estimates are calculated in accordance with the methodology described for local service carrier route applicants in the Board's procedural regulations. 14 CFR 302.1101 *et seq.,* Subpart K and PR-172, April 14, 1978. Applicants, including new entrants, whose data are not included in this costing system shall submit costings based on their internal company data, in Subpart K format to the extent feasible. While all applicants are of course free to include estimates of expense computed using a different methodology, we do not believe that it is a fruitful use of the applicants', the staff's or the board's resources to require an analysis of the cost of an applicant's proposal by a second costing method.

[8] We delegate to the presiding administrative law judge the authority to consolidate by order any applications which conform to the scope of the proceeding.

[9] All Members concurred.

[6320-01]

[Docket No. 33015; Order 78-8-123]

PAN AMERICAN WORLD AIRWAYS, INC.

Order Dismissing Complaint Regarding Budget Fares Between Houston and London

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of August 1978.

On June 30, 1978, Pan American World Airways, Inc. (Pan American) reduced budget fares for travel between Houston and London to roundtrip levels of $299 (basic season) and $319 (peak season). The fares had been $349 and $392, respectively. They offer a reserved seat, but require at least 21 days advance booking, and the carrier selects the specific date and flight within the week chosen by the passenger.[1] A complaint requesting suspension and investigation of Pan American's fare was filed by British Caledonian Airways Ltd. (BCAL) on July 11, 1978.

In support of its complaint, BCAL asserts that Pan American has offered

[1] The following table shows the relevant fare levels for roundtrip Houston-London travel:

BCAL: Bottom dollar—Basic, $349. Peak, $392.

Eleventh hour (all-year), $286.

Pan American: Old budget—Basic, $349. Peak, $392.

New budget basic, $299. Standby peak, $319.

no cost or other economic justification for its filing, and Pan American is wrong in contending that the budget fare must compete with BCAL's "eleventh hour" fare;[2] the new budget fare is clearly predatory and threatens the continued viability of BCAL's Houston-London service; and this complaint presents the Board with its first decisive challenge to suspend a manifestly predatory fare, with profound implications going beyond this particular case. In arguing that the budget fare is predatory, BCAL makes four main points: (1) Pan American's Houston-London standby fare (priced at the same levels as the budget) already effectively matches BCAL's eleventh hour fare, and the reduction in budget fare is therefore unnecessary;[3] (2) the reduced budget fares, at yields of only 3.08 and 3.29 cents per mile, are plainly unremunerative;[4] (3) the budget fare is not really intended merely to fill empty seats, because it is being offered only on one leg of a five-sector, multiple-market flight, rather than as a general rate reduction;[5] and (4) because BCAL cannot match the budget fare on any rational economic basis, Pan American's fare will drive BCAL from at least a portion of the market and thus significantly impair the viability of BCAL's Houston-London service.

In an answer to BCAL's complaint, Pan American states that its reduced budget fare was filed merely as a *response* to a low fare previously filed by BCAL, and the complaint's allegation of predatory intent is thus without merit; the Board has never said that competitive responses must exactly match the fare being competed against, but BCAL would now have the Board limit Pan American to a standby fare in competition with BCAL's eleventh hour fare; the Board has permitted budget fares to be offered at the same level as standby fares in other North Atlantic markets; the new budget fare is still priced *above* BCAL's eleventh hour fare, and will not undermine BCAL's higher bottom dollar fare either, since the budget fare is clearly a lower-quality product; BCAL is wrong in describing the budget fare as uneconomic and predatory, since its cost analysis relies on fully-allocated costs whereas the budget fare is clearly fill-up in nature and should not be assigned capacity costs; and BCAL already has a competitive service advantage in the Houston-London market because of its nonstop authority, which would be compounded if the Board disapproves Pan American's efforts to compete in price.[6]

The Board will dismiss BCAL's complaint. The balance of public interest lies clearly on the side of permitting competitive rate filings and experimentation, and a heavy burden of proof falls on those who allege predation and advocate restricting competition in order to maintain competition. BCAL has not sustained that burden here.

Nothing before us convinces us that Pan American's reduced budget fare is predatory. A predatory rate may be defined briefly as one that is set at a level below costs in the hope that it will drive a competitor out of the market with the expectation of an ability to earn monopoly profits thereafter. The budget fare is neither below cost nor likely to drive BCAL from the Houston-London market. BCAL's allegation that it is below cost centers on an analysis of fully allocated total cost;[7] but as the Board has recognized before, the budget fare is a genuine fill-up offering whose relevant marginal cost approximates noncapacity cost, a level easily covered by Pan American's proposed fares.[8] Further, if it is Pan American's intention to use the budget fare as a below-cost "fighting ship" to drive out competition, as BCAL contends, this has not been apparent in other markets, where Pan American has continued to promote the budget fare at approximately the same level as prevailing standby fares, as here, with no indication that it has seriously threatened the position of other carriers.

BCAL's charge that the budget fare will "significantly impair the viability, let alone the development" of its Houston-London service is either hysterical or disingenuous. There is no reason to believe the budget fare will make BCAL's lower-priced eleventh hour fare unmarketable. Neither are we convinced that it poses a serious threat to BCAL's higher bottom dollar fare. Although the budget fare is lower than the bottom dollar, the relative attractiveness of promotional fares depends in part on their conditions, a point emphasized by BCAL itself. The relative value of the budget fare to the passenger appears to fall somewhere between the eleventh hour and bottom dollar fares, and Pan American has priced it accordingly. It is not up to the Board to attempt the impossible task of calculating whether the prices, all of which clearly cover their short-run marginal costs, exactly match the relative values.[9] Only the market can answer that question, provided of course the fares are not predatory, a question we have already disposed of.

BCAL's position in the Houston-London market is strong, and while Pan American, like any serious competitor, obviously hopes to increase its market share at its rival's expense, the results are not likely seriously to threaten BCAL's overall competitive position or the continued viability of its service. BCAL offers nonstop service while Pan American must fly via New York. Further, experience in other North Atlantic markets, where the budget fare has accounted for less than 2 percent of total economy-class traffic, hardly suggests a severe threat to anyone's competitive position. Finally, BCAL is a vigorous and imaginative competitor which has already introduced a unique, competitive fare structure on its Houston-London route, and we cannot believe that it will be unable to compete effectively with Pan American. We are rather surprised that it is asking us to restrict competition because it may lose some traffic.[10] BCAL seems to be falling back into advocating a competitive "balance" in which only very minor changes in market share are allowed, a view which the Board does not accept.

BCAL implies that Pan American's effort to compete with the eleventh hour fare should be restricted to the roughly comparable standby fare. But as the Board has stated before, competitive responses need not match exactly the fare they compete against.[11]

BCAL also asserts that the Houston-London budget fare should be suspended because Pan American is not offering similar reductions on the other segments of its Mexico-Houston-New York-London-Frankfurt-Teheran flight, which "proves" the fare is predatory. "Discriminatory sharpshooting" is a not uncommon characterization of rate reductions which are offered only in markets where competition exists. We do not find this argument convincing here. There is every reason to be-

[2] BCAL's "eleventh hour" fare is available only during the last 2 hours before departure, and includes no meal service. It was first effective on Mar. 18, 1978, and BCAL has not changed it. The "bottom dollar" fare offers confirmed reservations either 21 days or more before departure or 24 hours before departure.

[3] BCAL also notes that Pan American's budget fare is priced up to 20 percent below BCAL's analogous "bottom dollar" fare.

[4] BCAL cites an earlier Pan American cost estimate of 8.5 cents per mile in North Atlantic service at a 55-percent-load factor; even at an 85-percent-load factor Pan American's total operating costs would equal 5.9 cents per mile.

[5] Mexico City-Houston-New York-London-Frankfurt-Teheran.

[6] Pan American offers One-stop service via New York.

[7] By BCAL's reasoning, even the previous, higher level budget fares were below cost. Yet BCAL did not complain against those fares. In fact, similar arguments may be advanced against various BCAL offerings.

[8] See Order 77-9-55, Sept. 16, 1977, which approved the original New York-London budget fare.

[9] The budget fare is priced at a level equal to the standby fare. This relationship, which the Board and foreign governments have approved in many North Atlantic markets with no apparent disruption, may not be inevitable, but it does have precedents.

[10] In fact, we applaud BCAL's initiative in establishing a fare structure that unbundles economy-class service.

[11] See Order 77-6-68, June 6, 1977.

lieve that the reduced Houston-London budget fare is a genuine fill-up fare, which will not require any cross-subsidy from the less competitive parts of Pan American's five-sector route, but instead will improve Pan American's overall profits.[12] Clearly, passengers on the other sectors will be no worse off than before; actually, they may be better off in the long run, since an improved market share for Pan American between Houston and London, rather than requiring recoupment from the higher-margin markets, may permit reduction of that margin. More fundamentally, it is the very presence of competition that causes carriers to invent more ingenious fares (which may tend initially to be more perfectly discriminatory in the economic, but not legal, sense of the term) to attract business, and the Board will not disapprove Pan American's fare here merely because it has not offered similar discounts in less competititve markets, especially where the relative absence of price competition elsewhere is due in large part to regulatory barriers.[13]

BCAL has asked for leave to file a reply to Pan American's answer, and Pan American has requested permission to file a further answer if BCAL's motion is granted. The Board will grant both motions. The only new material in the documents concerns BCAL's allegations that Pan American has violated the Board's tariff regulations, and that it will be able to sell budget fares only by blocking off seats which would otherwise be used by higher-fare passengers. Pan American denies the charges, and it does not seem likely that the carrier would turn away higher-fare passengers in order to accommodate lower-fare passengers.

Accordingly *it is ordered*, That:

1. The complaint of British Caledonian Airways Ltd. in Docket 33015 is dismissed; and

2. The motions of British Caledonian Airways Ltd. and Pan American World Airways, Inc., to file otherwise unauthorized documents in Docket 33015, are granted.

This order will be published in the FEDERAL REGISTER.[14]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24572 Filed 8-30-78; 8:45 am]

[12] In any event, one sector of the route, New York-London, can hardly be described as noncompetitive, and low level budget fares already exist there.

[13] The German Government has already disapproved budget fares between the United States and Germany, hence Pan American's filing of a Houston-London fare may well be an attempt to maximize revenues on the longest haul between countries within the Mexico-Teheran route pattern where budget fares exist.

[14] All Members concurred.

[6320-01]

[Docket No. 32794; Order 78-8-128]

TEXAS INTERNATIONAL AIRLINES, INC.

Order To Show Cause and Granting Temporary Suspension of Service at Jackson, Miss.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of August 1978.

On June 2, 1978, Texas International Airlines (TXI) filed an application for authority to suspend service at Jackson, Miss. for a period of 7 years. It asks that the authority be effective August 1, 1978.

In support of its request, the applicant alleges that the point is amply served by other carriers, most of which have superior authority; at Jackson in 1976, TXI enplaned only 2,831 passengers, which shows the limited role play by TXI when compared to the sizable traffic levels experienced by Delta Air Lines and Southern Airways, and thus the inconsequential effect of suspension; and the Jackson Parties have stated that they will not object to the application for a temporary suspension.

No answers have been received.

We have decided (1) to authorize TXI to suspend its services temporarily at Jackson and (2) to issue an order to show cause which proposes to make its authority there permissive. We note that the community has not objected to the temporary suspension, and that suspension will have a favorable impact on the carrier's overall operations. Moreover, the point receives service from Delta, Southern, and a commuter air carrier, Air Illinois. Accordingly, we find that the temporary suspension will be in the public interest.[1]

Turning next to our decison to make TXI's Jackson authority permissive, we note that if we suspend the carrier only for a period of 7 years, as sought, TXI would have to resume service or file for a renewal of its suspension authority at the end of that period. Renewal could well result in an indefinite suspension *per se*. Permissive authority on the other hand, would give the carrier the right to serve or not to serve as it chooses, allowing it to resume service should its assessment of the markets change, without the costly delay otherwise required to obtain our approval. As noted in several cases, we view the possible preemptive effect of such dormant authority as small, and counterbalanced by its use as a competitive spur.

TXI does not play a major role in the carriage of Jackson traffic. In 1977, its market share was less than 3 percent of the passengers enplaned there (see app. A[a]). With fewer than 10 passengers per departure, TXI has found operations to be econonomically unsound. It estimates that continued operations would result in losses of $151,036 annually. We believe this estimate is reasonable. There is no reason to believe that there is a prospect for improved results for TXI in the near future, especially in light of the alternative services available. Delta and Southern serve Jackson. For the most part, these other carriers possess superior authority, have more passenger recognition and provide ample direct and connection service (see app. B[a]). Of Jackson's top 10 O. & D. Markets Delta can serve 9 and Southern 3 on a nonstop basis. Should the findings in Order 78-4-109, Delta's route realignment, be made final, Delta would possess nonstop authority in all of the top 10 markets.[2] By comparison, TXI has nonstop rights in only one market, one-stop in three markets, and no authority in the remaining top six. In addition, Air Illinois provides service to Natchez and New Orleans. Consequently, it appears that any upgrading of TXI's authority would simply result in duplicative authority in relatively small, well-served markets.

In view of the above, we tentatively conclude that the public convenience and necessity require the amendment of TXI's certificate to make its Jackson authority permissive.

Interested persons will be given 30 days following the date of service of this order to show cause why the above tentative findings and conclusions should not be made final. We expect that objections will be supported by detailed economic or legal arguments. If an oral evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such hearing is necessary and what material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, *it is ordered*, That:

1. All interested persons be directed to show cause why the Board should

[1] We also tentatively find that TXI is fit, willing and able within the meaning of section 401 of the Act. Since the proposed suspension and certificate amendment will induce, at most, only a minor decrease in operations, our actions will not result in a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969 or a major regulatory action under the Energy Policy and Conservation Act of 1975.

[a] Appendices A and B filed as part of the original document.

[2] Since TXI was not suspended at Jackson when the above order was issued, nonstop authority for Delta in the Houston-Jackson market was not proposed. We will remedy this oversight in our final order in Docket 29774, if TXI does indeed suspend its Jackson services.

not issue an order making final these tentative findings and conclusions and amending TXI's certificate for Route 82 to make its authority to serve Jackson permissive;

2. Any interested person having objection to the issuance of an order making final proposed findings, conclusions and certificate amendment shall, by September 25, 1978, file with the Board and serve upon all persons listed in paragraph 7 a statement of objections together with the testimony, statistical data, and evidence relied upon to support its objections. Answers to objections shall be filed by October 5, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised before further action is taken by the Board:[3] *Provided,* That the Board may proceed to enter an order in accordance with its tentative findings and conclusions if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for further action;

5. TXI be authorized to suspend service temporarily at Jackson, Miss., until 90 days after final decision on the certificate amendment proposed in paragraph 1 above;

6. The authority granted in paragraph 5 shall become effective on the date of service and may be amended or revoked at any time in the description of the Board without hearing; and

7. A copy of this order shall be served on all persons named in the service list of Docket 32794.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24573 Filed 8-30-78; 8:45 am]

[3] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[6320-01]

[Docket Nos. 33112, 33136; Order 78-8-150]

TEXAS INTERNATIONAL-NATIONAL ACQUISITION CASE AND ENFORCEMENT INVESTIGATION AND NORTH CENTRAL-SOUTHERN MERGER CASE

Order Instituting Proceedings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of August 1978.

On July 28, 1978, Texas International Airlines (TXI) filed an application for approval of its acquisition of control of National Airlines under section 408 of the Federal Aviation Act, 49 U.S.C. 1378. TXI asserts that the proposed acquisition will, within the meaning of section 408, be consistent with the public interest and "will not result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the * * * acquisition." [1]

TXI reports having already made open market purchases of 790,700 shares of National's common stock, representing 9.2 percent of National shares outstanding, at a price of approximately $14.5 million. It says that it intends to acquire up to 25 percent of National's voting shares before final Board action on its application.[2] TXI's application, however, seeks approval for the acquisition of National's capital stock without limitation as to the number of shares which may be acquired.

TXI asks us to give prompt and expedited consideration to its application. It notes its already heavy cash investment in National, and argues that delay in processing its application could tie up a substantial portion of its assets and deprive the public, the shareholders of each carrier and the carriers themselves of the benefits of its proposed acquisition.[3] It suggests that we establish a procedural schedule which will permit us to decide the case within 6 months of the date of filing of its application. Such expedited treatment, it observes, is consistent with the 6 month period allowed for decision on section 408 cases in the legislative reform bills pending before both Houses of Congress.[4]

National has filed an answer in response to TXI's application. It submits that the application should be dismissed because TXI has failed to advise us precisely what it proposes to do and provide us with any specific justification. Also, National raises numerous points about what it perceives to be the competitive implications of TXI's proposed acquisition, and suggests a series of issues it believes should be considered.[5]

We have decided not to dismiss TXI's application. In our view, the points National raises would best be aired in hearing.[6]

The Tourist Development Authority of the city of Miami Beach, Fla., has filed a comment in opposition to the proposed acquisition based on possible injury to Miami if it is approved. Also, Continental Air Lines, Braniff Airways, Western Air Lines, Delta Airlines, the city of Harlingen, Tex., the U.S. Department of Transportation, the Flight Engineers International Association, AFL-CIO, United Air Lines and American Airlines, have filed petitions to intervene, which we will grant.

On August 3, 1978, North Central Airlines and Southern Airways applied for expedited consideration and approval of the proposed merger of the latter into the former, and the transfer to North Central of Southern's certificates of public convenience and necessity and exemption authority. The joint applicants state that on July 28, 1978, their respective boards of directors approved a letter of intent confirming the desire of the two companies to merge and setting forth the principles of that merger.[7]

---

[1] Section 408(b), 49 U.S.C. 1378(b).

[2] TXI proposes to keep its acquired stock in a voting trust during the pendency of its application to insulate it from acquiring control under section 408. See our discussion of this proposal below.

[3] TXI relies on the Board's recent decision in "International Air Service Company Acquisition of Control of Aloha Airlines, Inc., Order 78-6-208, June 30, 1978, for a recital of the public interest factors which support a policy of not discouraging hostile open-market take-over attempts.

[4] S. 2493, section 20, Report No. 95-631, and H.R. 12611, section 28, Report No. 95-1211, 95th Cong., 2d Session.

[5] National also alleges that TXI has violated sections 408 and 411 of the act by its stock purchase program and asks that we defer consideration of TXI's application pending a resolution of these allegations. We will, however, investigate possible violations of the act by TXI during the proceedings on the merits of its application. See "Swift International Forwarders," Order 76-12-84, December 14, 1976, and discussion below. The competition and public service aspects of this acquisition are the primary issues before us in both the acquisition and enforcement facets of this case; however, we anticipate the resolution of all the issues in this proceeding within the announced target dates.

[6] National also asks us to adopt modern discovery procedures (in accordance with the Federal Rules of Civil Procedure) in our consideration of TXI's application. It submits that our present rules are ill-suited to deal with contested takeovers. We have decided not to grant this request. However, we recognize that the various parties to the proceedings which we are instituting may have legitimate needs for deposing certain individuals and obtaining documentary evidence to prepare their cases. Rule 20 of the rules of practice provides for such procedures, but ordinarily limits their application. So we have decided to delegate authority to order deposition testimony and the production of documentary evidence, under section 1004(e) of the act, to the Administrative Law Judges conducting these proceedings, who may make these procedures available to the parties. We wish to emphasize, however, that the use of these procedures should not be allowed to delay the course of these cases.

[7] A copy of the letter of intent is attached to the joint application as appendix A. The letter, which by its own terms is not a binding legal agreement, states that each Southern stockholder will receive 2.2 shares of North Central common stock for each share of Southern stock. Each holder of Southern's convertible securities, stock purchase

Footnotes continued on next page

The applicants anticipated that a definitive merger agreement would be executed on or before August 15, 1978, and that stockholder approval would be achieved within approximately 120 days.

Southern and North Central, like TXI, urge expeditious consideration of their application, and contend that the proposed merger will be in the public interest, will not result in creating a monopoly or monopolies, will not restrain competition, and will not jeopardize any other air carrier not a party to it.

Western Air Lines, Braniff Airways, Delta Air Lines, the Minneapolis-St. Paul Metropolitan Airport Commission, United Airlines, American Airlines and the Master Executive Council of North Central Pilots have filed petitions to intervene, which we will grant.[8]

Merger and Acquisition Issues

A merger of two air carriers or an acquistion of an air carrier by any person is illegal without prior Board approval under section 408 of the act. Section 408(b) calls for approval with appropriate terms and conditions unless the merger or acquisition will not be consistent with the public interest—subject to the proviso that the Board shall not approve a merger or acquisition which would result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the transaction.

The North Central-Southern application also calls for the transfer to the former of the latter's certificates of public convenience and necessity. Section 401(h) of the act precludes such a transfer unless it is approved by the Board as being consistent with the public interest; and since certificates for foreign air transportation are involved, their transfer is subject as well to the approval of the President of the United States under section 801 of the act.

Ascertainment of the public interest in a merger or acquisition proceeding is a balancing process in which the Board weighs all of the considerations disclosed by the record relating to the act's purposes and objectives "in order to calculate, as near as may be determined, the probable net effect of the proposed transaction upon the public interest."[9]

The test of consistency with the "public interest" brings into play section 102 of the act, especially the portions that declare, as being in the public interest, the encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States; the regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation; the promotion of adequate, economical, and efficient service by air carriers at reasonable charges; and competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of the nation.

Also pertinent to the public interest aspects of a merger or acquisition is the policy expressed in the Clayton Act, section 7, which proscribes certain acquisitions having anticompetitive effects.[10] Even though section 414 of the act immunizes a merger or acquisition which we approve from the operation of the antitrust laws, we cannot ignore the policy of those laws. Indeed, antitrust is a very important public interest consideration.[11] As the U.S. Court of Appeals for the District of Columbia Circuit has stated, the antitrust laws are:

> another tool which a regulatory agency employs to a greater or lesser degree to give understandable content to the broad statutory concept of the "public interest" * * *.[12]

Under Board precedent, transactions that violate established antitrust principles will not be approved unless there is a clear and convincing showing that they are required by "a serious transportation need" or are necessary to secure other important public benefits. We also require the proponents of the proposed activity to consider less anticompetitive alternatives, and to explain why these alternatives have been rejected. (See our decision in the "Capacity Reduction Agreements Case," cited below.) It is not necessary that asserted inconsistencies with antitrust principles constitute outright antitrust violations. The Board has said: "[t]he essential question from an antitrust standpoint is whether the existence of a market structure conducive to maximum feasible competition will be imperiled by approval of the agreement."[13]

We view these two applications in the context of both the statutory and policy guidelines, discussed above, and today's regulatory environment. We are attempting to change air transport regulation from a burdensome, prescriptive regime, in which entry is restricted and rates determined in detail by the regulators to a less interventionist regime in which entry is relatively free, and prices are to a large extent set competitively. We are making this change because we firmly believe that vigorous competition is most likely to fulfill the objectives of the Federal Aviation Act. We consider the speedy and successful management of this change to be our paramount public duty. Accordingly, we consider the public interest in these applications, or in any merger or acquisition, to be dominated by the question of their potential effect on our efforts to create a more competitive air transportation system.

The current period of transition is also one of uncertainty. Regulatory and legislative actions to create a more competitive air transportation system are still evolving and we cannot know the optimal firm size or industry structure for the as yet undefined regulatory environment of the future. We do know, however, that during this period of transition the elimination of any existing certificated air carrier seriously concerns us. While we hope to see new organizations certificated to offer air transportation, the present shortage of available equipment, the length of even our most expedited certification proceedings, and the relative difficulty of starting a new airline mean that the Board's transition program

---

Footnotes continued from last page

warrants and qualified stock options will receive North Central securities on equivalent terms but with the conversion exercise for North Central shares based on the 2.2:1 exchange ratio. The letter further states that Southern will be merged into North Central, with North Central the surviving corporate entity. An appropriate name for the merged company, representative of its broadened service area, will be selected and North Central's certificate of incorporation will be so amended upon the effective date of the merger.

[8] The General Counsel of the Department of Transportation has filed a letter with our docket section urging the Board to defer establishment of the procedural framework for hearing on the applications, in Dockets 33112 and 33136, until after receipt of further public comment. The Department's request will be denied. All interested parties will have ample opportunity to participate in the establishment of the scope and conduct of the proceedings at the prehearing conferences.

[9] "American-Mid Continent Merger," CAB 366, 372 (1946).

[10] Section 7, as amended in 1950, provides in pertinent part: "No corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital * * * [or] * * * the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly." 64 Stat. 1124 (1950), 15 U.S.C. 18.

[11] See e.g. *McLean Trucking Co. v. United States*, 321, U.S. 67 (1944); and *Capacity Reduction Agreements Case*, Order 75-7-98, July 21, 1975. Also see, section 11 of the Clayton Act, 15 U.S.C. 21, which vests us with the power to enforce compliance by air carriers and foreign air carriers with section 7 of that statute.

[12] *Northern Natural Gas Co. v. FPC*, 399 F. 2d 953, 961 (1968). See also *United States v. F.M.C.*, Nos. 76-2004 and 77-1470 (C.A.D.C. July 28, 1978) at 12-15 slip opinion.

[13] "Reopened Transamerica Corporation and Trans International Airlines, Inc.," Order 71-7-119, July 21, 1971, at 16, citing *National Air Carrier Association et al. v. CAB*, 442 F. 2d 862 (1971).

depends heavily on existing air carrier competitors to respond most quickly to market opportunities and thereby contribute to the initiation or intensification of competition and the supply of services finely attuned to market demand. During the transition period, and until the Board has lowered still further the regulatory barriers to new entry, a lingering oligopolistic industry structure means that the rate of increase in competition is likely to be directly related to the number of existing competitors who can start service on their existing routes [14] or apply for expedited consideration of their requests to serve new markets.[15] Therefore, a decline in the number of existing competitors, actual or potential, which might not be as significant in a fully competitive regime, will, we believe, tend at this time to frustrate our regulatory objectives.

We must record at once our recognition of the fact that the effectiveness of competition is not a function of the number of competitors alone. It is also important that the competitors be highly efficient, vigorous and aggressive; and it is conceivable that some diminution in numbers accompanied by an enhancement of the fitness of each to compete may, *Provided*, The stimulus to competition remains powerful, make competition more, rather than less, effective.

Nevertheless, we must, with the air transportation industry structured as it now is, be particularly concerned about the degree to which combining carriers may be actual or potential competitors of one an other. It is the existing carriers that have the management, labor, equipment and established stations to permit the most immediate responses to the expanding opportunities for competition that we are intent on creating. Since the number of potential competitors in any particular market will remain limited for some time to come, the degree of injury to competition from a combination during the transition period will vary directly with the degree to which the combined carriers compete or could start competitive service by using existing unused authority or applying for elimination of restrictions or expedited entry into new markets.

In addition, we cannot ignore the possible effects of our decisions on business judgments and behavior. The uncertainty that necessarily accompanies the transition which we are attempting makes us fear that an uncritical attitude toward consolidation may precipitate a wave of uneconomic and anticompetitive mergers and acquisitions. First, air carrier managements might be tempted to merge or acquire during a period of perceived Board tolerance for fear of being unable to do so later when the regulatory climate might have become more restrictive. Second, no one can be sure how far or how fast our reform program will progress. An overly tolerant attitude by the Board may encourage businessmen to calculate that a merger or acquisition, though not economically advantageous in an unregulated environment, may prove to be so given the risk that regulatory reform may fail or proceed only slowly. Similarly, uncertainty about our actions or their results may lead financial institutions to encourage smaller firms to merge even though their economic prospects are sound, and to refuse to finance smaller air carriers who desire to expand internally rather than merge. Business managements might direct their entrepreneurial energies more to seeking the security that appears to be promised by joining in the formation of larger organizations with larger route systems, and less to the highly selective, discriminating task of rationalizing their existing route systems, sloughing off uneconomic operations, improving their internal operations and selectively grasping the opportunity to extend their operations in the way most rational to them. At worst, an overly tolerant attitude toward particular horizontal combinations might be interpreted as a Board judgment, which we are emphatically not prepared to make at this time, that a major consolidation of the industry would be economically sound, and in the public interest.

Finally, we are in this period of transition somewhat less responsive to certain traditional claims of benefit which have, in the past, favored the approval of horizontal combinations. In a regulatory regime in which competitive route expansion was severely restricted, public service benefits flowing from expanded route systems were regularly offered in support of proposed combinations. A key element of our transition to a more competitive environment, in contrast, is the more rapid processing of a greatly increased number of competitive route applications. We have encouraged carriers to file applications to seize competitive opportunities by internal expansion. In brief, the advantages can—at least so far as Board policy is determinative—now be achieved by internal expansion, without merging. During the transition period, as a general proposition we are strongly inclined to prefer the former method to the latter—competitive entry to service expansion by absorbing a competitor, actual or potential.

Despite our concerns about mergers and acquisitions during the transition period and our declining reliance on some benefits traditionally associated with horizontal combinations, we, of course, intend to consider each application on its individual merits. The damage to our transition that the elimination of any single carrier could inflict is directly proportional to the carrier's competitive potential. We have made clear our desire, absent anticompetitive effects, to bring the discipline of the capital markets to bear on air carrier managements.[16] Applicants may be able to convince us that the carrier to be acquired is failing, or that the combination will actually enhance competition. For example, where the acquired carrier is a relatively ineffective or unaggressive competitor, the merger or acquisition may discipline the system and may deploy existing air transportation assets more competitively than otherwise.[17] Moreover, our concern that current regulatory uncertainty may spawn uneconomic combinations does not mean that we cannot be convinced that a particular merger or acquisition is justified by increased efficiency of a short that clearly outweighs any anticompetitive consequences. Finally, there may be reasons why the preferred process of expansion through competitive entry is impractical in a particular case. In considering each particular case, however, we expect the Administrative Law Judge and the parties to be guided by the above statement of our concerns.

The particular circumstances surrounding these applications may justify approval; we believe, however, in fairness to the applicants, that we should alert them to our initial concerns raised by their requests. First, as to the North Central-Southern merger, these two carriers appear to be likely potential entrants into each other's markets and route systems. Geographically these carriers are standing on the edge of each other's systems. Indeed, as the result of recent grants of new operating authority, each is now extending its route system into the primary region served by the other. (See, for example, the "Midwest-Atlanta Competitive Service Case," Order 78-7-137, July 25, 1978, granting North Central Detroit-Atlanta authority and the "Memphis-Twin Cities" Milwaukee Case, Order 78-6-20, June 1, 1978, granting Southern authority between Memphis, on the one hand, and Milwaukee and Minneapolis/St. Paul, on the other.) Also, as a result of our advocacy of liberalized

[14] See our discussion of existing dormant authority in the *Oakland Service Case*, Order 78-4-121, Apr. 19, 1978.

[15] See e.g., *Application of Piedmont Aviation, Inc.*, Order 78-4-69, Apr. 14, 1978.

[16] See *International Air Service Company Control of Aloha Airlines, Inc., supra.*

[17] We recognize that this question is difficult to resolve and we will rely on the Judge to avoid overburdening the record on it.

market entry, both are now seeking authority in 40 common city-pair markets.[18] We also note that both Southern and North Central now serve Chicago, Detroit, and New York. In our view, all these factors enhance the likelihood of independent competitive entry by Southern and North Central into each other's markets absent combination. We also note that the predominant aircraft operated by both carriers is the DC-9. This too would seem to facilitate the prospect that these carriers would be able to enter new markets (including each other's) suited to service by this class of aircraft.

Because TXI has not so precisely advised us as to its specific intentions, we are unable to identify our areas of concern in evaluating its proposed acquisition. TXI has not told us whether it would merge one carrier into the other or operate one as a subsidiary, or liquidate its interest in one while continuing to operate the other. Answers to these questions would, of course, greatly affect how we view the acquisition. Assuming, however, that the current National and TXI would be controlled by the same economic interests, we note that at present they are two of the principal competitors providing nonstop service in the Houston-New Orleans market;[19] that their route systems are geographically adjacent; and that they are competing applicants for new authority in a number of Board proceedings.[20]

As we stated above, our views on these applications are by no means formed. Our discussion here is designed to alert the parties to our general attitude and, thus, focus the proceedings. We, therefore, expect the proceedings that we are instituting by this order to consider the following non-exhaustive list of issues:

I. Would approval of the application result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the action proposed?

II. Would approval of the application be consistent with the public interest?

A. Would the effect of the proposed combinations be to substantially lessen competition or to tend to create a monopoly in any region of the United States? If so, are the anticompetitive effects of the proposed transaction outweighed in the public interest by the probable effects of the transaction in meeting significant transportation conveniences and needs that may not be satisfied by reasonably available alternatives having materially less anticompetitive effects?[21]

1. Would the proposed combination create a more competitive and efficient air carrier, thereby stimulating competition in the air transportation system, or could it create inefficiencies or management problems that would diminish the combined carrier's competitive potential?

2. May the objectives and benefits of the combination be achieved by alternatives less anticompetitive means—particularly internal expansion; or are there barriers such as equipment shortages or regulatory obstacles to the attainment of these objectives and benefits by independent action?

3. How would the proposed transaction affect the quantity and quality of air service?[22]

III. What terms, conditions or modifications could the Board attach to the proposed transaction, or what other collateral action could the Board take, to increase its public benefits or reduce its harm?

IV. What impact would approval of the proposed transaction have on the environment and energy resources of the nation?

ENFORCEMENT ISSUES

In addition to its arguments against the proposed acquisition, National alleges that TXI has already violated sections 408 and 411 of the Act by its stock purchases. The Board's Bureau of Consumer Protection has also requested that we consider instituting an enforcement proceeding against TXI to determine whether TXI has violated sections 408 and 411 of the Act and section 7 of the Clayton Act. We have decided to act on the Bureau of Consumer Protection's request by consolidating the enforcement issues with the acquisition proceeding. The questions of whether TXI has acquired control without prior approval of the Board in violation of section 408 of the Act, and whether its stock purchases to date constitute an unfair practice or unfair method of competition under section 411 of the Act will be litigated and decided in the proceeding we are instituting to consider its application.

First, we wish to determine whether TXI's holdings of National stock should be aggregated with National stock owned by National Aviation and Technology Corporation (NATC) to determine the full extent of voting shares subject to TXI's direction and control. In addition to the 9.2 percent interest already acquired by TXI, reports filed with the Board under part 245 of our Economic Regulations disclose that NATC owns 3.0 percent of National's voting stock and about 18.2 percent of TXI's voting stock. Under these circumstances, we would like to explore the practical workings of the relationship between NATC and TXI and the consequences of that relationship for TXI's influence on National to determine whether section 408 of the Act has been violated.

While the Federal Aviation Act does not presume control from the ownership of voting shares at levels below 10 percent, we may nevertheless find control, where circumstances warrant, at lower levels.[23] BCP points out that TXI's own 9.2 percent holding, even without aggregating NATC's 3.0 percent, constitutes the largest block of stock in National, that TXI is avowedly seeking control of that carrier, and that the 9.2 percent nears the statutory level of presumed control. The proceeding should also determine whether, under these circumstances, section 408 has been violated.[24] At the same time, this case is precedential in that it is the first contested take-over attempt in which the shares of the target firm may be a significant

[18] See, *Chicago-Midway Expanded Service Proceeding*, Docket 33019; *Carribean Area Service Investigation*, Docket 30697; *Atlanta-Florida Competitive Nonstop Service Case*, Docket 30679.

[19] In light of the section 411 and Clayton Act questions raised by TXI's current holdings of National (see discussion below), we shall be alert to any reduction in the quantity or quality of competitive services in the Houston-New Orleans market during the pendency of TXI's application. If we determine that any diminution in competition has become evident, we will be receptive to granting additional authority in this market by exemption.

[20] See, *Houston-Tampa/Orlando New Orleans-Orlando Investigation*, Docket 31921; *Dallas/Ft. Worth/Houston-Philadelphia Service Investigation*, Docket 32343; *U.S.-Bahamas Service Investigation*, Docket 32294; *Las Vegas-Texas Case*, Docket 32152; *Houston-Phoenix/Tucson Case*, Docket 32708, *Oakland Service Case*, Docket 30699; *Tucson-San Diego Nonstop Route Investigation*, Docket 32709; *Dallas/Ft. Worth-New Orleans-Florida Service Investigation*, Docket 32711; and *San Francisco-Reno-Albuquerque-Texas Service Case*, Docket 32710.

[21] This is essentially the test set forth in S. 2493, cited above. This test is based in part on the statutory language of the Bank Merger Act (12 U.S.C. 1828) (c)(5), (17) and 1842(c). Also see, *United States* v. *Third National Bank of Nashville*, 390 U.S. 171 (1968). We have already adopted this test for judging intercarrier agreements under section 412. See Order 78-6-78, June 9, 1978. We believe that this test should similarly be applied to our approval of mergers and acquisitions since such approval also carries automatic antitrust immunity under section 414.

[22] Of course, this issue includes the impact of approval of the merger or acquisition on fares, subsidy liability, and, especially, service to smaller communities. Senator George McGovern has sent a letter expressing concern on the effect the North Central-Southern merger will have on service to South Dakota. We will expect the proceeding to consider this issue. A copy of Senator McGovern's letter has been placed in the correspondence file for Docket 33136.

[23] *Railroad Control of Northeast Airlines*, 4 C.A.B. 379, 380 (1945).

[24] Recently received information indicates that TXI may have already increased its beneficial ownership of National stock, within the meaning of section 408, to a level above 10 percent. The protection afforded by this order, of course, does not cover actions taken before this order is issued.

weapon in the acquisition struggle.[25] As we explore the possibility of violations of section 408, we will be alert to the possible consequences of our actions for the free flow of capital and for future struggles for control of air carriers.

BCP has also asked us to consider whether TXI has violated section 411 of the act and section 7 of the Clayton Act. As BCP notes, TXI and National are direct competitors between Houston and New Orleans and are potential competitors in markets being considered in at least nine Board proceedings. Under these circumstances, TXI's acquisition of its current shareholdings, as part of its declared program to acquire control of National might possibly have resulted in a violation of section 7 of the Clayton Act or violated section 411. We have determined to set the section 411 issues for resolution in this proceeding. Additionally, in accordance with BCP's recommendation, we have decided that the judge should investigate whether there are reasonable grounds to believe that section 7 of the Clayton Act has been violated. Of course, in considering all of these enforcement issues, we will be alert to the implications of our actions in the marketplace for future corporate control.

Many of the enforcement issues involve the same evidence as is relevant to the determination of the merits of the acquisition itself. Therefore, orderliness and efficiency require the litigation of these issues together so we have decided to investigate the Clayton Act issues in the same hearing in which we are considering TXI's proposed acquisition and determining whether violations of sections 408 and 411 have occurred. In the hearing, we would like the judge to consider the following questions:

I. Has TXI violated section 408 of the Act?

A. Should the interests of TXI and those of National Aviation and Technology Corp. be aggregated to determine the former's voting share participation in National under section 408 of the Act?

B. Does TXI's ownership of National's stock constitute control of National within the meaning of section 408?

II. Has TXI violated section 411 of the Act?

III. Are there reasonable grounds to believe that TXI has violated section 7 of the Clayton Act?

If the judge finds violations of sections 408 and 411 of the Act, he shall grant whatever relief he finds appropriate after consideration of all the facts and circumstances presented in this proceeding. If the judge finds reasonable grounds to believe that section 7 of the Clayton Act has been violated, we expect him to recommend whether further enforcement action based upon that section should be instituted.

The Texas International Voting Trust Issues

TXI states that it may continue to purchase up to 25 percent of National's voting shares during the pendency of its application. Section 408(f) of the Federal Aviation Act presumes control at 10 percent. TXI recognizes that acquiring up to 25 percent would violate the statutory requirement that approval precede acquisition. It seeks to nullify the presumption of unlawful control by placing the stock in a limited voting trust. With several important exceptions, it will not vote its shares so as to affect decisions made by National Airlines which are submitted to shareholder vote.[26]

National objects to the possibility of further stock purchases and the use of a voting trust as a cure for unlawfully acquired control. It would have the control application held in abeyance until these issues are settled. It claims that TXI's actions are severe violations of law that require postponement of the acquisition under governing precedent.[27] TXI argues the opposite, claiming that its violations are not only not severe, but non-existent. It claims to have acquired less than 10 percent of National shares, and says it will not purchase more than 10 percent without insulating itself from control by the use of the voting trust.[28]

TXI also argues that its voting trust device is consistent with the Board's announced desire not to allow section 408 to work any unintended interference with the flow of capital into the airline industry.

We believe that the issues raised by the voting trust should be resolved as soon as possible—within the next 30 days. This is the second contested takeover to come before us in the past year. We do not wish to see section 408 unnecessarily raise the cost of an acquisition which might ultimately recieve public interest approval. So we are again faced with reconciling the prior approval requirements of section 408 with the possibility that this section affords incumbent managers a degree of protection that is not warranted by the provisions's intent or the public interest generally. TXI's application proposes the use of a voting trust to acommodate these competing interests. It argues that its position is supported by case law, although National argues from a long line of CAB precedent that voting trusts are not a sufficient device to insulate a target company from unlawful control.

During the next 30 days we will consider the legal arguments, but we tentatively find that the use of a trust, revised according to the instructions below and limited to 25 percent of National's shares, may result in a satisfactory separation of ownership from control for the relatively short period that TXI's application for approval is pending before the Board.

As proposed the trust agreement would give TXI unfettered control over the voting of up to 25 percent of National's shares on issues that might affect TXI's interests.[29] The desire to retain this power is readily understandable. We can see no way of justifying such unapproved acquisitions of control under section 408, unless the acquiring company has neutralized its power to control the target company that arises from its ability to vote the shares it has acquired. But TXI would retain this voting power on issues that are crucial to it under its proposed trust arrangement. At least in cases where a presumption of control exists under section 408, we are not certain that this retention would be consistent with the statutory requirements, since

---

[25] In the *International Air Service Corporation, Inc. Acquisition of Aloha Airlines Case, supra,* the Aloha management was stipulated to be in complete control notwithstanding IASCO's holding of voting stock.

[26] The trustee, the United States Trust Company of New York is instructed to vote the stock entrusted to it proportionately with the votes cast by the holders of the other outstanding shares. This will increase the aggregate number of votes cast, but it will not change the balance for or against any proposition. Depending upon National's bylaws, this may have the effect claimed by TXI. The execptions, which we described below, still remain of significant concern to the Board.

[27] In our most recent consideration of the way to handle violations of the prior approval requirements, we decided that automatic postponement—the old rule—was unreasonably burdensome. We noted that even while the old rule was in effect, we had waived it routinely. Our new policy is geared toward individual evaluation of each alleged violation. We retained the possibility of postponement of a hearing on the merits, where we deemed an unapproved acquisition to be a severe violation and considered immediate enforcement action the proper course. *Swift International Forwarders,* Order 76-12-84, December 14, 1976.

[28] The Board initially conidered these arguments in a public meeting on August 17. Since that time TXI may have increased its beneficial ownership above the 10 percent presumption. This matter should be considered in the principal investigation. Additionally, we are informed that Pan American World Airways has purchased approximately 5 percent of National's shares and has approached National with the possibility of a friendly merger. This development may raise significant issues which we may have to address in the future.

[29] The trust agreement instructs the trustee, notwithstanding the proportionate voting provisions, to vote TXI's shares against any proposed action involving changes in the number or type of issued or outstanding shares in the company, changes in the bylaws or certificate of incorporation, sale of company assets, any merger, consolidation, recapitalization or dissolution, unless TXI instructs otherwise.

the right to vote would be exercised before approval by the Board. Consequently, it is our intention to direct TXI, if it acquires stock above the 10 percent presumption, to reform the trust agreement to eliminate its control over the trustee's voting of its National shares. We, therefore, do not object to TXI's proportionate voting proposal, but would eliminate TXI's discretion to intervene in circumstances which it believes are exceptional without specific prior Board waiver. We recognize the risks that are created by this kind of trust, but we believe that they are necessary under the circumstances. TXI will be free to petition the Board for waiver of this condition. It is our tentative view that this waiver procedure, which will make Board approval a precondition to voting other than proportionately, is compatible with all the obligations imposed on us by section 408 and our statutory mandate to keep the industry competitive and efficient.

TXI has already placed its National stock in trust. Whether it will choose to use the revised trust while it holds less than the 10 percent at which section 408 presumes control is something we cannot predict. It is free to do otherwise, but it takes the risk that its conduct could be found to be an unlawful acquisition. However, if TXI's holdings exceed 10 percent, we will require that all of its National stock be placed in trust—assuming the trust device is sustained.

TXI has already placed its National stock in trust. Whether it will choose to use the revised trust while it holds less than the 10 percent at which section 408 presumes control is someting we cannot predict. It is free to do otherwise, but it takes the risk that its conduct could be found to be an unlawful acquisition. However, if TXI's holdings exceed 10 percent, we will require that all of its National stock be placed in trust—assuming the trust device is sustained.

Of course, TXI cannot know whether our tentative findings on the trust will be confirmed until the 30-day period for comment and decision is over. This creates a serious problem for it. TXI has plainly stated that it does not want to be restrained in its purchases; and it is equally clear that approval after 30-days would amount to an announcement that TXI is back in the market. From our standpoint, we are not expert enough to predict the effect that this would have, nor do we have any legal authority or public interest reason to influence the price of National shares. So our predisposition is to keep our hands off. Certainly in the absence of the voting trust, acquisition of more than 10 percent is presumptively unlawful. Therefore, as the end of the 30-day period, if the trust is not sustained, TXI would have to rid itself of the excess over 10 percent. However for stock holdings of this sort—that is acquisitions in excess of 10 percent but placed in a trust of a type tentatively approved but later disapproved by the Board—we do not believe that this agency need take action beyond divestiture to accomplish the purposes behind section 408. Thus, if TXI continues to purchase up to 25 percent of National's stock and uses the suggested trust, it does so at its own risk and subject to (1) our authority to order diverstiture to below 10 percent if the trust form is disapproved, (2) our ultimate authority to order divestiture if the acquisition is disapproved and (3) the possibility of enforcement actions if, apart from holding shares in the voting trust, it is found to have exercised unlawful control over National whether directly or indirectly. See 49 U.S.C. 1383.

Also, while we wait for further comment on these issues, we direct the trustee, if it becomes entrusted with 10 percent or more of National's stock, to vote all shares committed to it only in proportion to the manner that all other shares are voted or not voted.[30]

There are important questions that we need answered before we can decide whether a revised trust agreement will be satisfactory. TXI is directed to provide us with at least the following information: (1) Its willingness to revise the trust agreement along the lines above; (2) its intentions regarding the holding of any National stock outside of the trust agreement; (3) agreements of any sort regarding the voting of stock by other holders of National's securities; and (4) whether or not it will continue to acquire stock before revising the trust agreement along the lines outlined above. We will require TXI's answers to these questions within 10 days of the service date of this order. Any further comments it wishes to make in support of its position will be due 20 days from the date of service.

National will also be directed to file any further comments it wishes to make within 20 days of service. Furthermore, since our decision in this case will have obvious precedential value, we solicit the comments of any other interested persons. Comments are requested from the Departments of Justice and Transportation, the Federal Trade Commission, and the Securities and Exchange Commission, and all other interested persons—not limited to the immediate parties to this contest—are welcome to submit their views on this issue. Comments will be due within 20 days and a preliminary determination on the voting trust issue—which will be the rule for this case—will be issued shortly thereafter.

We wish to make a few remaining points before leaving this issue. What we are attempting to determine is whether any form of trust agreement is sufficient to insulate an acquiring party from control during the pendency of an application before the Board. We are not considering the propriety of a trust agreement as a long-term instrument for investment in the stock of competitors. We wish to consider whether, even in the period ncessary for the processing of a Section 408 application, there are any distinct problems raised by the fact that the voting trust is used by a competitor or potential competitor. We also request those commenting to address the question of whether there should be a restraint on alienation of the shares required to be placed in the trust. However, whether there are already violations of section 408 and 411 is not germane to the question of the advisability and legality of permitting a revised trust. Those matters are dealt with above.

Procedural Dates

We agree with the applicants that fairness to all concerned requires expedition. Accordingly, we have decided to institute proceedings to consider the applications before us separately in the light of the concerns expressed above, and we direct the administrative law judge presiding over each hearing to issue their respective decisions no later than January 2, 1979. We have determined to take review of each initial decision and will issue an order setting forth an expedited briefing schedule at a later date. For our part, we will endeavor to make a final decision on these two applications by March 1, 1979.

Accordingly, it is ordered, That:

1. A proceeding to consider the application of Texas International Airlines, Inc. for approval of the acquisition of control of National Airlines, Inc., in Docket 33112, to consider whether TXI has violated sections 408 and/or 411 of the Act in connection with its attempt to acquire control of National, and to consider whether there are reasonable grounds to believe that TXI has violated section 7 of the Clayton Act in connection with its attempt to acquire control of Na-

[30] As noted above, this rule of proportionate voting is the basis on which TXI claims to have relinquished its control. We are insisting that it be used without the exceptions retained by TXI. Our power to so instruct the trustee is recognized in the trust agreement, paragraph 11(b). We deem this order final as to the instructions given to the trustee, but subject to waiver as discussed above. Finally, while we have referred to National's shares as "stock" generally, we would remind the parties in interest that the method for calculation of 10 percent is specifically defined in section 408(f).

tional, be instituted under sections 204, 408, 411 and 1002 of the Federal Aviation Act of 1958, as amended, and be set for hearing before an Administrative Law Judge of the Board;

2. A proceeding to consider the application of North Central Airlines, Inc. and Southern Airways, Inc., for approval of the merger of Southern into North Central, and the transfer to North Central of Southern's certificates of public convenience and necessity for Routes 98 and 174 and other certificate and exemption authority, in Docket 33136, be instituted under sections 204, 401 and 408 of the Federal Aviation Act of 1958, as amended, and be set for hearing before an Administrative Law Judge of the Board;

3. The authority to order testimony and the production of documents provided in section 1004(e) of the Act is delegated for the duration of the proceedings instituted in paragraphs 1 and 2 above to the respective Administrative Law Judges conducting them;

4. The petitions for intervention of Continental Air Lines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Western Air Lines, Inc., the city of Harlingen, Tex., the U.S. Department of Transportation, the Flight Engineers International Association, AFL-CIO, United Air Lines, and American Airlines in Docket 33112, and Western Air Lines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Minneapolis-St. Paul Metropolitan Airports Commission, United Air Lines, American Airlines, and the Master Executive Council of North Central Pilots, in Docket 33136, be granted;

5. The Bureau of Consumer Protection be made a party to the proceedings instituted in paragraphs 1 and 2 above;

6. Texas International Airlines, North Central Airlines and Southern Airways shall file the environmental submissions required by § 312.12 of the Board's Procedural Regulations within 30 days of the date of service of this order (by September 27, 1978);

7. Motions to consolidate and petitions for reconsideration of this order shall be filed within 10 days of the date of service of this order (by September 7, 1978) and responsive answers shall be filed 5 days thereafter (by September 12, 1978);

8. This order shall be served on the U.S. Departments of Justice and Transportation, the Federal Trade Commission, the Securities and Exchange Commission; and the United States Trust Company of New York;

9. TXI is directed to provide the information requested on page 17 above within 10 days of the service date of this order;

10. Any parties wishing to comment on the advisability of permitting a trust agreement for interim holding of potentially controlling blocks of securities during the pendency of control applications are directed to respond within 20 days of service. Parties to this docket will abide by the Board's rules for service; other interested persons may submit three copies of any comments to the Board's Docket Section;

11. The United States Trust Company of New York is directed to vote all National Airlines shares held by it pursuant to a trust agreement with Texas International Airlines dated July 24, 1978, only in accordance with paragraph 4 of that agreement until further order of the Board;

12. The requests of National Airlines, Inc. for injunctive relief, as set forth in its letters of August 7 and 15 to Chairman Kahn, be denied;

13. The motion of National Airlines, Inc., dated August 15, 1978, to file otherwise unauthorized documents be granted; and

14. The administrative law judges presiding over the above proceedings are directed to issue their decisions by January 2, 1979.

This order shall be published in the FEDERAL REGISTER.[3]

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24575 Filed 8-30-78; 8:45 am]

[3510-13]

DEPARTMENT OF COMMERCE

National Bureau of Standards

BUILDING TECHNOLOGY ADVISORY COMMITTEE

Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that a public meeting of the Building Technology Advisory Committee will be held on September 13, 1978 at the O'Hare Hilton (O'Hare Airport), Room 2116, Chicago, Ill. The meeting will convene at 9 a.m. and adjourn at 5 p.m.

The purpose of this meeting is to consider the reports of the subcommittees on energy conservation, building rehabilitation, integrated approach to safety, and metric conversion, and formulate recommendations for the Bureau's building technology programs.

The public is invited to attend, and the chairman will entertain comments or questions at an appropriate time during the meeting.

Further information concerning this meeting may be obtained by contacting Samuel Kramer, National Engineering Laboratory, National Bureau of Standards, Building 225, Room A-151, Washington, D.C. 20234, 301-921-3231.

Dated: August 29, 1978.

THOMAS A. DILLON,
Acting Director.

[FR Doc. 78-24816 Filed 8-30-78; 11:40 am]

[3128-01]

DEPARTMENT OF ENERGY

Bonneville Power Administration

[DOE/EIS-0005-DS-1]

FRANKLIN AREA SYSTEM REINFORCEMENT

Availability of Draft Facility Location Supplement

Notice is hereby given that the Bonneville Power Administration (BPA), Department of Energy (DOE), has issued a draft facility location supplement to its final fiscal year 1979 environmental statement. This supplemental environmental statement was issued pursuant to DOE's implementation of the National Environmental Policy Act of 1969. The supplemental statement was prepared to assess the anticipated environmental impact associated with the construction of approximately 5 to 6 miles of 500,000-volt transmission line through irrigated farmland.

Copies of the draft facility location supplement are available for public inspection at designated Federal depositories and at DOE public document rooms located at:

DOE Headquarters, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

BPA, Washington, D.C. Office, Interior Building, 18th and C Street NW., Washington, D.C. 20240.

Library, BPA Headquarters, 1002 NE. Holladay Street, Portland, Oreg. 97232.

BPA Walla Walla Area Office, West 101 Poplar, Walla Walla, Wash. 99362.

This document is being furnished to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in or affected by the proposal. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

A limited number of single copies are available for distribution by contacting the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oreg. 97208; the BPA Walla Walla Area Office mentioned above; or the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830, 615-483-8611, extension 34672. The statement can also be obtained from the National Technical Information Service, Springfield, Va. 22161.

[3] All Members concurred.

Dated at Washington, D.C., this 28th day of August 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-24491 Filed 8-30-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

AUGUST 22, 1978.

Take notice that Algonquin Gas Transmission Co. (Algonquin Gas) on August 9, 1978, tendered for filing substitute revised 41st revised sheet No. 10 to its FERC gas tariff, first revised volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to Algonquin Gas' purchased gas cost adjustment provision set forth in section 17 of the general terms and conditions of its FERC gas tariff, first revised volume No. 1, and proposes revised rates to be effective July 2, 1978, to reflect revised rates filed by its supplier, Texas Eastern Transmission Corp., under its substitute revised 41st revised sheet No. 14-D.

The proposed effective date of the revised tariff sheet is July 2, 1978.

A copy of this filing is being served upon all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24523 Filed 8-30-78; 8:45 am]

[6740-02]

BLACKSTONE VALLEY ELECTRIC CO.

[Docket No. EL78-33]

Proposed Purchase

AUGUST 23, 1978.

Take notice that Blackstone Valley Electric Co. (BVE) on August 2, 1978, tendered for filing an application to purchase certain electric facilities known as the "U-147 line" consisting of 2.6 miles of transmission line and associated structures in Rhode Island from the Narragansett Electric Co.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24524 Filed 8-30-78; 8:45 am]

[6740-02]

COLORADO INTERSTATE GAS CO.

[Docket No. CP75-281]

Petition To Amend

AUGUST 23, 1978.

Take notice that on August 7, 1978, Colorado Interstate Gas Co. (Petitioner), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP75-281 a petition to amend the order of January 26, 1977, issued in the instant docket (57 FPC—) pursuant to section 7(c) of the Natural Gas Act so as to provide for two additional delivery points in Sweetwater County, Wyo., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.[1]

It is indicated that pursuant to the order of January 26, 1977, petitioner was authorized to exchange gas with Mountain Fuel Supply Co. (Mountain Fuel), which gas is controlled by Petitioner and is gathered and delivered to Mountain Fuel in its existing Natural Buttes pipeline system. Petitioner indicates that Mountain Fuel has the option to purchase 25 percent of all gas volumes so delivered, and that the balance of such gas is redelivered to Petitioner in coordination with the Antelope Field and Spearhead Rach exchange arrangements between the two companies.

Petitioner states that production from the Natural Buttes area has steadily increased since the current exchange was authorized, and that Mountain Fuel has been unable to redeliver sufficient quantities of gas at existing certificated delivery points. Consequently, Petitioner proposes to add two additional delivery points for redeliveries by Mountain Fuel to Petitioner in Sweetwater County. The petition states that the first point is an existing delivery point from Petitioner to Mountain Fuel located in section 26, Township 18 North, Range 107 West, Sweetwater County, which point is proposed to be certificated for redeliveries by Mountain Fuel to Petitioner. The second delivery point is a proposed new facility to be located in section 14, Township 18 North, Range 106 West, Sweetwater County, it is said. Petitioner states that in order to establish this point, it would install a line tap in its 22-inch transmission line at an estimated cost of $5,600. Deliveries by Mountain Fuel at either point would require additional compression of the gas by Mountain Fuel, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considerably by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24525 Filed 8-30-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.01), it was transferred to the Commission.

[6740-02]

[Docket No. CP77-247]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CORP.

Application

AUGUST 23, 1978.

Take notice that on August 11, 1978, Columbia Gas Transmission Co., 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, and Columbia Gulf Transmission Co., 3805 West Alabama Avenue, Houston, Tex. 77027 (applicants) filed in Docket No. CP77-247 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service to the Lukens Steel Co. (Lukens) plant located in Coatsville, Pa., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that on February 24, 1977 it received a temporary certificate authorizing the transportation of up to 4,000 Mcf of natural gas per day to Lukens. It is further stated that the temporary certificate was granted upon the finding that an emergency existed requiring the transportation to Lukens by reason of the 100 percent curtailment of service to Lukens from another supplier. On March 22, 1977, Applicants state, service to Lukens ceased because Lukens was again able to receive gas from its original supplier. As a result Applicants and Lukens have by mutual agreement terminated their gas transportation agreement, it is stated; and Applicants request permission to abandon the service to Lukens.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24526 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-559]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Notice of Filing

AUGUST 22, 1978.

Take notice that Consolidated Edison Co. of New York, Inc. (Con Edison) on August 14, 1978, tendered for filing a rate schedule for the sale to Central Hudson Gas & Electric Corp. (Central Hudson) of capability and associated energy during the 1979-80 and 1980-81 winter capability periods.

Copies of this filing was served upon Central Hudson and the New York Public Service Commission, according to Con Edison.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24527 Filed 8-30-78; 8:45 am]

[6740-02]

EL PASO NATURAL GAS CO.

[Docket No. CP77-408]

Petition to Amend

AUGUST 23, 1978.

Take notice that on August 4, 1978, El Paso Natural Gas Co. (Petitioner), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP77-408 a petition to amend the order of August 29, 1977, issued in the instant docket (57 FPC —) [1] pursuant to section 7(c) of the Natural Gas Act so as to authorize the addition of four new El Paso receipt points and to authorize blanket authorization to permit the inclusion of future new receipt and/or delivery points, from time to time, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the August 29, 1977, order Petitioner was authorized to transport and deliver up to 10,000 Mcf of natural gas per day, on a best efforts basis, for Southwest Gas Corp. (Southwest) pursuant to a gas transportation agreement dated May 4, 1977, between the two companies. Petitioner states that in order to facilitate certain desired modifications to the authorized transportation arrangement between the parties, Petitioner and Southwest have entered into a gas transportation agreement dated July 3, 1978, which agreement would amend, restate and otherwise supersede said gas transportation agreement dated May 4, 1977. Pursuant to such amendment, Petitioner indicates that it would gather, and/or process or dehydrate when necessary, and transport, on a best efforts basis, up to 10,000 Mcf of natural gas per day for Southwest, by means of Petitioner's existing interstate transmission system, from certain of Petitioner's receipt points and concurrently redeliver equivalent quantities, less shrinkage and fuel use, to Southwest at existing delivery points on Petitioner's interstate mainline transmission system withint the State of Arizona and at the Arizona-Nevada boundary.

The petition states that Southwest has acquired the rights to natural gas supplies to be produced from a total of 8 wells; the Hi Roll Nos. 1, 2, 3, and 4, wells in San Juan County, N. Mex.; the Ford D-1 well in La Plata County, Colo.; and the Maestas Gas Unit No. 1, Rea Gas Unit No. 1, and the Kimbark-Berry Gas Unit No. 1 wells in La Plata County, Colo. It is stated that the gas supplies to be obtained from said wells is to be made available to Petitioner at

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.01), it was transferred to the Commission.

three additional receipt points. Southwest has acquired the rights to natural gas production from 2 additional wells, the Clary Gas Unit No. 1 well in La Plata County, Colo., and the Kimbark-Horton No. 9 well in San Juan County, N. Mex., whereby Northwest Pipeline Corp. (Northwest) would gather, transport and deliver the natural gas to Petitioner, for Southwest's account, at an existing point of interconnection between the pipeline system of Petitioner and Northwest in La Plata County, Colo., which deliveries would be made at the fourth receipt point, it is said.

It is stated that with the exception of the Ford D-1 well, Southwest has constructed or would contract to have constructed, at its own expense, the gathering facilities necessary to measure the quantity of natural gas which Southwest may cause to be delivered to the corresponding Petitioner receipt points and such measuring facilities would be owned, operated and maintained by Petitioner. With regard to the Ford D-1 well, Petitioner has currently obtained for its own interstate system supply 50 percent of the natural gas to be produced from the Ford D-1 well under gas purchase contract, it is said. Petitioner states that it would construct at its sole expense all of the necessary facilities to connect said well to its existing gathering facilities in La Plata County and to measure the gas received.

Petitioner indicates that it would accept deliveries of natural gas for Southwest's account at the receipt points and would deliver such equivalent supplies of natural gas after reduction for fuel, shrinkage and losses to Southwest at existing delivery points. Petitioner further indicates that it would continue to be responsible for the measurement of gas at the El Paso delivery Point and would utilize existing measuring facilities, to the extent possible, to measure the quantity of natural gas it delivers to Southwest.

The petition states that Southwest would continue to sell to Petitioner at the additional receipt points such quantities of natural gas as may be in excess of the volumes required to be transported and delivered to Southwest on a given day for service to Southwest's customers whose end-use requirements are classified in priorities 1, 2, and 3 pursuant to a new and expanded excess natural gas purchase agreement dated July 19, 1978, between Petitioner and Southwest.

For each Mcf of natural gas delivered by Petitioner for Southwest's account the transportation agreement, as amended, provides that Southwest would pay Petitioner those charges reflected in special rate schedule T-8, comprised of "Mainline Transmission Charge Arizona," "Mainline Transmission Charge—Nevada," "Production Area Charge—Field Gathering," and "Production Area Charge—Processing," as deemed required. As compensation to Petitioner for the dehydration operation which may be performed by Petitioner when deemed required on Southwest's behalf through the use of facilities in Petitioner's system, if dehydration is the only treating service performed, the subject transportation agreement adds the provision that Southwest would pay Petitioner the rates in effect and reflected from time to time as the "Production Area Charge—Dehydration only".

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24528 Filed 8-30-78; 8:45]

[6740-02]

[Docket No. RP72-136 (PGA78-4)]

FLORIDA GAS TRANSMISSION CO.

Proposed Changes in Rates and Charges Under Purchased Gas Adjustment Provision

AUGUST 23, 1978.

Take notice that on August 11, 1978, Florida Gas Transmission Co. (Florida Gas), P.O. Box 44, Winter Park, Fla. 32790, tendered for filing Substitute Nineteenth Revised Sheet No. 3-A to its F.E.R.C. Gas Tariff, Original Volume No. 1. Florida Gas requests an effective date of July 2, 1978. According to Florida Gas, the changes in rates contained on Substitute Nineteenth Revised Sheet No. 3-A are in accordance with the purchased gas adjustment provision in its tariff (Section 15, General Terms and Conditions).

Florida Gas States that the filing is a result of Southern Natural Gas Co.'s (Southern) filing of August 3, 1978. Florida Gas purchases gas from Southern and Substitute Nineteenth Revised Sheet No. 3-A of Florida Gas has been revised to reflect the August 3 filing of Southern.

Florida Gas further states that the following shows a comparison between the rates in effect pursuant to Substitute Eighteenth Revised Sheet No. 3-a and those to be made effective on July 2, 1978, under this filing.

	Cents per therm	
	Effective prior to July 2, 1978	Effective July 2, 1978
Rate Schedule G	12.658	12.751
Rate Schedule I	11.398	11.491

According to Florida Gas, the annual effect of its proposed rate changes is an increase of $777,410 based on sales for the 12 months ended March 31, 1978.

Florida Gas states that a copy of its filing has been served on all customers purchasing gas under its F.E.R.C. Gas Tariff, Original Volume No. 1 and the Florida Public Service Commission.

Any person desiring to be heard or to protest said compliance rate filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24529 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ES78-51]

GULF STATES UTILITIES CO.

Application

AUGUST 23, 1978.

Take notice that on August 15, 1978, Gulf States Utilities Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act for an order authorizing the issue of up to 5 million shares of additional common stock.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Tex., and is engaged in the electric utility business in portions of Louisiana and Texas.

Natural gas is purchased at wholesale and distributed at retail in the city of Baton Rouge, La., and vicinity.

The Applicant proposes to sell the new securities by negotiation in accordance with the Commission's regulations under the Federal Power Act to underwriters who will in turn make a public offering of such stock, provided the Commission grants an exemption from competitive bidding requirements as requested in Applicant's application.

The proceeds from the sale of the new securities will be used to pay off part of the company's outstanding short-term bank loans previously authorized by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24530 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-554]

KANSAS GAS & ELECTRIC

Proposed Tariff Change

AUGUST 22, 1978.

Take notice that Kansas Gas & Electric Co. (K.G. & E.) on August 14, 1978, tendered for filing proposed changes in its FPC Electric Service Tariff No. 74. K.G. & E. states that the proposed amendment changes the maximum and minimum amounts of power at delivery point No. 5 and eliminates delivery point No. 7 for the Sekan Electric Cooperative Association, Inc.

K.G. & E. further states that the amendment is necessary because the cooperative has exceeded the power requirements at delivery point No. 5 and is transferring the load from delivery point No. 7 to delivery point No. 5.

According the K.G. & E. copies of the filing were served upon the Sekan Electric Cooperative Association, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24531 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-550]

KANSAS POWER & LIGHT

Proposed Changes on Rates and Charges

AUGUST 22, 1978.

Take notice that on August 14, 1978, the Kansas Power & Light Co. (K.P. & L.) tendered for filing a newly executed renewal contract dated August 1, 1978, with the city of St. John, Kans., for wholesale service to that community. K.P. & L. states that this is a renewal of a similar contract dated March 19, 1968, and designated K.P. & L. Rate Schedule No. 116. K.P. & L. further states that the net billing for the 12 months succeeding the proposed change in agreements will be $112,670.70.

K.P. & L. proposes an effective date of August 1, 1978, and therefore requests waiver of the Commission's notice requirements.

According to K.P. & L. copies of the contract have been mailed to the city of St. John and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24532 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ES78-40]

MONTANA-DAKOTA UTILITIES CO.

Application

AUGUST 23, 1978.

Take notice that on August 21, 1978, Montana-Dakota Utilities Co. (Applicant), a corporation organized under the laws of the State of Delaware and qualified to do business in the States of Minnesota, Montana, North Dakota, and South Dakota, filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order for the exemption from competitive bidding and for authority to issue 100,000 shares of its 7.55 percent series preferred stock in a private placement.

The new preferred stock will be pari passu with Applicant's outstanding preferred stock.

The net proceeds from the issuance and sale of the new preferred stock are to be used to provide for the repayment of promissory notes, due not more than 1 year after the dates of their respective issue, which were issued in 1978 to provide temporary financing for part of the cost of Applicant's 1978 construction program.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24533 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. RP74-100 et al.]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

AUGUST 22, 1978.

Take notice that on August 10, 1978, National Fuel Gas Supply Corp. (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Twentieth Revised Sheet No. 4, proposed to be effective September 1, 1978.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in section 17 of the general terms and conditions. National further states that such tariff sheet reflects an adjustment in National's rates of 6.49 cents per Mcf on Twentieth Revised Sheet No. 4.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24534 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-555]

NEW YORK STATE ELECTRIC & GAS CORP.

Notice of Cancellation

AUGUST 22, 1978.

Take notice that New York State Electric & Gas Corp. (N.Y.S.E. & G.) on August 14, 1978, tendered for filing a notice of cancellation of its FPC Electric Schedule No. 24.

N.Y.S.E. & G. states that the subject rate schedule is an agreement dated June 15, 1964, providing for N.Y.S.E. & G. to sell to the village of Greene the latter's electrical energy requirements. N.Y.S.E. & G. further states that the schedule became effective on June 15, 1964, and was terminated on August 1, 1978. N.Y.S.E. & G. indicates that the electrical energy requirements of the village of Greene will be supplied by the Power Authority of the New York State as of August 1, 1978.

N.Y.S.E. & G. proposes an effective date of August 1, 1978, and therefore requests waiver of the Commission's notice requirements.

According to N.Y.S.E. & G. copies of this application were served upon the village of Greene.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24535 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP76-104]

PACIFIC INTERSTATE TRANSMISSION CO.

Proposed Changes in FERC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provision

AUGUST 22, 1978.

Take notice that Pacific Interstate Transmission Co. (Pacific Interstate) on August 15, 1978, tendered for filing as part of its FERC gas tariff, original volume No. 2, the following sheets:

Ninth Revised Sheet No. 4
Seventh Revised Sheet No. 5

Pacific Interstate states that these tariff sheets are issued pursuant to the purchased gas cost adjustment (PGCA) provision as set forth in section 16 of the general terms and conditions of its FERC gas tariff, original volume No. 2. The proposed effective date of both of these tendered tariff sheets and the rates reflected thereon is October 1, 1978.

Pacific Interstate states that the above tendered tariff sheets reflect a proposed October 1, 1978 Pacific Interstate rate schedule S-G-1 commodity rate of 132.65 cents per decatherm, a decrease of 19.26 cents from the 151.91 cents per decatherm rate effective April 1, 1978, the date of the last S-G-1 commodity rate change and that such decrease reflects a current gas cost adjustment and a change in the surcharge adjustment.

Pacific Interstate states that the current gas cost adjustment is based on an annualized gas cost increase of $67,525 and that the surcharge adjustment is designed to amortize, over a 6-month period beginning October 1, 1978, an amount of ($162,662), which is the amount in Pacific Interstate's unrecovered purchased gas cost account at June 30, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24536 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-553]

PACIFIC POWER & LIGHT CO.

Notice of Filing

AUGUST 22, 1978.

Take notice that Pacific Power & Light Co. (Pacific) on August 14, 1978, tendered for filing, in accordance with § 35.12 of the Commission's regulations, a new rate schedule for excess firm energy sales to Public Service Co. of New Mexico (New Mexico). Pacific requested that the rate schedule be made effective 30 days after the filing date.

Copies of the filing were supplied to New Mexico, according to Pacific.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24537 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-474]

ARKANSAS LOUISIANA GAS CO.

Application

AUGUST 25, 1978.

Take notice that on August 7, 1978, Arkansas Louisiana Gas Co. (applicant), P.O. Box 21734, Shreveport, La. 71151, filed in docket No. CP78-474 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to enable applicant to take into its certificated main pipeline system gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with applicant.

Applicant states that the total cost of the proposed facilities would not exceed $10,000,000 and that the cost of any single project would not exceed $2,000,000, which cost applicant would finance from cash on hand and from cash generated from normal internal sources and from short-term bank loans and other short-term borrowings utilized in the normal operation of the applicant's total business.

Applicant states that it recognizes that the proposed budget-type authorization for the construction of gas-purchase facilities has an estimated total cost for a single project in excess of the amounts specified in subparagraph (1)(ii) of section 157.7(b) of the Commission's regulations. Consequently, pursuant to subparagraph (2) of section 157.7(b) of the Commission's regulations, applicant requests waiver of the provisions of subparagraph (1)(ii) so as to allow for a total cost in excess of the amounts specified in subparagraph (1)(ii). Applicant states that by order issued April 12, 1978, in docket No. CP77-501, such higher maximum was authorized for applicant for the calendar year 1978 for reasons found to be good and valid. Applicant asserts that such reasons still exist and accordingly requests that the high maximum be authorized for calendar year 1979.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24538 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-485]

ARKANSAS OKLAHOMA GAS CORP.

Notice of Application

AUGUST 24, 1978.

Take notice that on August 16, 1978, Arkansas Oklahoma Gas Corp. (applicant), 115 North 12th Street, Fort Smith, Ark. 72901, filed in docket No. CP78-485 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to enable applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with applicant.

Applicant states that the total estimated cost of the proposed facilities would not exceed $475,000, with no single project to exceed $115,000. Applicant indicates that the cost of the proposed facilities would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal

hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24539 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-552]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Proposed Tariff Change

AUGUST 24, 1978.

Take notice that Central Vermont Public Service Corp. (Central Vermont) on August 14, 1978, tendered for filing a proposed change in its FPC electric service rate No. 88. Central Vermont states that the propose changed would increase revenues from jurisdictional sales and service by $37,224 for the 12-month period ending October 31, 1978.

Central Vermont further states that the change is proposed in accordance with article V of the Company's agreement with the Vermont Electric Cooperative, Inc., which provides that charges under the agreement will be updated annually to incorporate the Company's purchased power cost experience for the preceding 12 months ending April and the Company's capacity cost associated with company-owned generating facilities for the preceding calendar year. Central Vermont proposes and effective date of November 1, 1978.

Copies of the filing were served upon the Vermont Electric Cooperative, Inc., and the Vermont Public Service Board, according to Central Vermont.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24540 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. RP72-136 (PGA78-5)]

FLORIDA GAS TRANSMISSION CO.

Proposed Changes in Rates and Charges Under Purchased Gas Adjustment Provision

AUGUST 25, 1978.

Take notice that on August 21, 1978, Florida Gas Transmission Co. (Florida Gas) P.O. Box 44, Winter Park, Fla. 32790, tendered for filing Twentieth Revised Sheet No. 3-A to its FERC gas tariff, original volume No. 1.

Florida Gas states that the filing is a result of Southern Natural Gas Co.'s (Southern) filing of August 16, 1978, in docket No. RP78-36 to be effective August 1, 1978. Florida Gas purchases gas from Southern and Twentieth Revised Sheet No. 3-A of Florida Gas has been revised to reflect the August 16 filing by Southern.

Florida Gas further states that the following shows a comparison between rates in effect prior to Twentieth Revised Sheet No. 3-A and those to be made effective on August 1, 1978 under this filing:

	Cents per/therm	
	Effective prior to 8-1-1978	Effective 8-1-1978
Rate schedule G	12.751	13.007
Rate schedule I	11.491	11.747

According to Florida Gas, the annual effect of its proposed rate changes is an increase of $2,139,965 based on sales for the 12 months ended March 31, 1978.

Florida Gas requests the Commission to grant such wavers that are deemed necessary to effectuate the filing.

Florida Gas states that a copy of its filing has been served on all customers purchasing gas under its FERC gas tariff, original volume No. 1 and the Florida Public Service Commission.

Any person desiring to be heard or to protest said compliance rate filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24541 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-508 and ER78-19, et al.]

FLORIDA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Transmission Service Agreement, Waiving Filing Requirements, and Consolidating Proceedings

AUGUST 23, 1978.

On July 25, 1978, Florida Power & Light Co. (FPL) tendered for filing as an initial rate schedule in docket No. ER78-508 a proposed transmission service agreement (agreement) for service to Tampa Electric Co. (Tampa). FPL states that, under the agreement, FPL will transmit power and energy to Tampa as is required by Tampa in the implementation of its interchange agreements with the Orlando Utilities Commission, the Lake Worth Utilities Authority, and the city of Homestead. A certificate of concurrence by Tampa was also tendered with the agreement. FPL requests an effective date for the agreement of no later than 30 days after the date of filing.

Notice of the filing was issued August 1, 1978, with comments, protests, or petitions to intervene due on or before August 11, 1978. No responses were received.

The subject agreement contains the same transmission rate and provisions set forth in three other transmission agreements submitted by FPL. Also, the cost data tendered in support of the instant agreement is identical to that submitted in those three prior filings, which were suspended and are the subject of the consolidated proceedings, docket Nos. ER78-19, et al. Since similar issues of fact and law are presented in the instant submittal, we will consolidate the proceeding in docket No. ER78-508 with the proceedings in docket Nos. ER78-19, et al. for purposes of hearing and decision.

As noted above, FPL submitted the instant filing as an initial rate schedule under section 35.12(b) of our regulations. However, FPL transmits power and energy to Tampa under an interchange agreement filed with the Federal Power Commission on August 10, 1977, in docket No. ER77-550. Therefore, FPL is proposing to render a supplemental or an additional service to Tampa and its instant filing should have been submitted pursuant to section 35.13 of our regulations. We will waive the requirements of section 35.13 for the limited purpose of ac-

cepting for filing FPL's tender of the subject agreement. We will require FPL to file complying cost support data for the instant submittal within 20 days of issuance of this order.

FPL's proposed agreement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. We will therefore suspend the agreement for 1 day to become effective subject to refund pending determination of its lawfulness.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's rules of practice and procedure and to the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the agreement tendered by FPL in docket No. ER78-508.

(B) Pending a hearing and decision thereon, FPL's proposed agreement in Docket No. ER78-508 is hereby accepted for filing, suspended, and permitted to become effective August 26, 1978, subject to refund under section 205 of the Federal Power Act.

(C) Section 35.13 of our regulations is hereby waived for the limited purpose of permitting us to accept FPL's tendered agreement for filing. FPL is hereby ordered and directed to file cost data pursuant to section 35.13 in support of its proposed agreement in docket No. ER78-508 within 20 days of the issuance date of this order.

(D) Docket No. ER78-508 is hereby consolidated with the proceedings in Docket Nos. ER78-19 et al. for the purposes of hearing and decision.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24542 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-475]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

AUGUST 25, 1978.

Take notice that on August 9, 1978, Natural Gas Pipeline Co. of America (applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in docket No. CP78-475 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas purchase facilities in the Joyce Richardson Field, Harris County, Tex., all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of April 7, 1958, Texas Illinois Gas Pipeline Co.[1] was authorized in docket No. G-13868 to construct and operate approximately 0.61 mile of 4-inch lateral pipeline and related appurtenant facilities in the J. C. Ogburn A-616 Survey, Harris County, Tex., which facilities were required to effectuate the receipt of gas purchased from Christie, Mitchell & Mitchell Co., et al. (seller), contract dated June 1, 1957, from the Joyce Richardson field in docket No. G-13809, and were installed at a cost of $22,415.89.

Applicant indicates that its gas production from the dedicated acreage under said contract in the Joyce Richardson field terminated in 1961, and that it does not forsee any additional gas production form this acreage in the future. Applicant states that the subject facilities therefore are not presently required. Applicant states that the subject proposes, upon issuance of the requested authorization herein to remove all salvable above ground facilities and utilize them where required. All other facilities would, in part or in total, be abandoned in place or removed and scrapped, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNTEH F. PLUMB,
Secretary.

[FR Doc. 78-24543 Filed 8-30-78; 8:45 am]

[1] Texas Illinois Gas Pipeline Co. assigned its interest to Peoples Gulf Coast Natural Gas Pipeline Co., and Peoples Gulf Coast assigned its interest to applicant.

[6740-02]

[Docket No. RM77-14]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Gas Research Institute Adjustment

AUGUST 25, 1978.

Take notice that on August 16, 1978, Northwest Pipeline Corp. ("Northwest") tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Substitute 20th revised sheet No. 10; and
Substitute original sheet Nos. 61 and 62.

These sheets will, when accepted for filing and made effective by the Commission, establish section 17, "Gas Research Institute Charge Adjustment Provision," as part of the general terms and conditions of said tariff as provided by FERC opinion No. 11, issued March 22, 1978, at docket No. RM77-14 and reflect on Northwest's statement of rates, the GRI adjustment.

Substitute original sheet Nos. 61 and 62 are identical in content to those sheets filed on April 6, 1978, except the carrying charge provision has been deleted as required by the Commission's order dated June 1, 1978, in docket No. RM77-14. Northwest has requested such waivers of the Commissions rules and regulations as may be necessary so that the aforementioned tariff sheets may become effective June 1, 1978, as originally proposed in the April 6, 1978 filing.

Substitute 20th revised sheet No. 10 sets forth a revised statement of rates which incorporates an increase of 0.015 cents per therm for those sales subject to the GRI adjustment to be effective October 1, 1978, to recover its payments to GRI as approved by FERC opinion No. 11, issued March 22, 1978, at docket No. RM77-14. The

increase of 0.015 cents per therm is comprised of an annualized increase of 0.011 cents per therm and a surcharge of 0.004 cents per therm which is designed to recover Northwest's payments to GRI for the months June-September, 1978, over the 6-month period commencing October 1, 1978.

Northwest is concurrently filing a notice of change in rates applicable to article 16, purchased gas cost adjustment provision and article 13.4, change in rates to reflect curtailment credits, contained its original volume No. 1 tariff. All three rate adjustments are reflected on the tendered substitute 20th revised sheet No. 10, which is proposed to become effective October 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24544 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-481]

NORTHERN NATURAL GAS CO.

Application

AUGUST 24, 1978.

Take notice that on August 14, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in docket No. CP78-481 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to exchange natural gas with El Paso Natural Gas Co. (El Paso) and to permit the future connection and disconnection of wells, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that a gas exchange agreement (Agreement), dated July 19, 1960, as amended, exists between the Applicant and El Paso for the gathering, delivery, and exchange of natural gas produced from acreage located in Beaver County, Okla. It is indicated that, under the terms of the agreement, when the volumes of gas received by the gathering party for the other's account are not equal, then an interconnection between the gathering systems of the parties is to be installed. Thus far the only point of interconnection for the exchange is located on gathering facilities, it is asserted. Applicant states that currently the exchange volumes delivered by El Paso are not sufficient to maintain a balance with volumes delivered by Applicant. Applicant requests authority to use a presently operated point of interconnection located in Beaver County, Okla., to exchange natural gas with El Paso under the terms of the agreement, as amended.

Applicant asserts that it will pay to El Paso one-half cent (½¢) per Mcf of natural gas it receives at the proposed new exchange point from El Paso under the terms of the agreement.

In addition, Applicant requests that the Commission adopt an area connection concept which would authorize applicant to add or delete wells located in Beaver County, Okla., to the exchange agreement without requesting additional authorization for each addition or deletion. Applicant proposes that it will submit a revised exhibit "A-2" to the agreement prior to January 31 of each year, pursuant to part 154 of the regulations, reflecting all additions and deletions of wells under the agreement which have occurred during the prior calendar year. Applicant asserts that this will permit the connection of wells more quickly at lower cost and with fewer materials.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24545 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-482]

NORTHERN NATURAL GAS CO.

Pipeline Application

AUGUST 25, 1978.

Take notice that on August 14, 1978, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in docket No. CP78-482 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Transcontinental Gas Pipe Line Corp. (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has entered into an exchange arrangement whereby Transco and applicant will exchange on a best-efforts basis quantities of gas up to a maximum daily quantity equal to the dekatherm equivalent of 3,000 Mcf at 14.73 psia. Applicant indicates that the proposed exchange involves gas it has available in the offshore Louisiana area and that which Transco has available in Pecos, Hemphill, and Crockett Counties, Tex.

It is stated that the proposed exchange will allow each company to connect a source of supply remote from their respective system. No monetary consideration will be given by either party for the exchange of gas.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 18, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not

serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public conveneience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24546 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-480]

NORTHERN NATURAL GAS CO.

Pipeline Application

AUGUST 25, 1978.

Take notice that on August 14, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nabr. 68102, filed in docket No. CP78-480 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant, to sell natural gas to Panhandle Eastern Pipe Line Co. (Panhandle), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant has contracted to purchase forty percent (40%) of Exxon Corp.'s production from East Cameron Block 335 and one hundred percent (100%) of Cabot Corp.'s interest in South Marsh Island Block 143, Offshore Louisiana. Applicant has entered into certain transportation arrangements with Panhandle & Trunkline Gas Co. which provide for the transportation and redelivery of such gas to Applicant's system.

As partial consideration for the transportation of Applicant's offshore gas, Panhandle has a continuing option to purchase up to twenty percent (20%) of the volume of Applicant's Block 335 and Block 143 gas received by Trunkline.

Accordingly, Applicant proposes to sell natural gas to Panhandle for resale in interstate commerce. The gas will be sold to Panhandle on a monthly cost of service basis, which cost represents Applicant's cost of gas at the point of delivery to Trunkline. The estimated average cost of service per Mcf for the first year of operations is $1.76 for Block 335 and $1.91 for Block 143.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 18, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24547 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP77-7]

PANHANDLE EASTERN PIPE LINE CO.

Petition to Amend

AUGUST 25, 1978.

Take notice that on August 4, 1978, Panhandle Eastern Pipe Line Co. (Petitioner), P.O. Box 1642, Houston, Tex. 77001, filed in docket No. CP77-7 a petition to amend the order of November 24, 1976,[1] issued in the instant docket (56 FPC ——) pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) so as to authorize the transportation of natural gas for Chemetals Corp. (Chemetals), in lieu of Diamond Shamrock Corp. (Diamond Shamrock), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the November 24, 1976, order Petitioner was authorized to transport gas from Moore County, Tex., to an existing point of delivery to Columbia Gas Transmission Corp. (Columbia) in Lucas County, Ohio, for Diamond Shamrock, for ultimate usage in Diamond Shamrock's manganese oxide plant near Baltimore, Md. It is further indicated that Petitioner is currently rendering such transportation service for Diamond Shamrock pursuant to its rate schedule T-11 of its FERC Gas Tariff, Original Volume No. 2.

Petitioner states that it has been advised that Diamond Shamrock has agreed to sell to Chemetals certain assets comprising Diamond Shamrock's Chemetals Division, including the manganese oxide plant near Baltimore, all as more fully set forth in the assignment and assumption agreement dated May 26, 1978, among Petitioner, Diamond Shamrock, and Chemetals.

It is indicated that Chemetals would continue to operate the manganese oxide plant in the same manner as did Diamond Shamrock and the use of the natural gas to be transported hereunder would not change.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to inter-

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

vene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24548 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-551]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Proposed Tariff Change

AUGUST 24, 1978.

Take notice that Central Vermont Public Corp. (Central Vermont) on August 14, 1978, tendered for filing proposed changes in its FPC Electric Service Rate No. 89. Central Vermont states that the proposed changes would increase revenues from jurisdictional sales and service by $10,130 for the 12-month period ending October 31, 1978.

Central Vermont further states that the change is proposed in accordance with the provisions of article VIII, and amendments thereto, of the company's transmission service agreement with the Vermont Electric Cooperative, Inc., which provides that charges will be updated annually to incorporate the company's cost experience for the preceding calendar year.

According to Central Vermont copies of the filing were served upon the Vermont Electric Cooperative, Inc., and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24560 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket Nos. RP72-122 (PGA78-3) and RM77-14]

COLORADO INTERSTATE GAS CO.

PGA Rate Increase and Tariff Filings To Establish Gas Research Institute Charge Adjustment Provision

AUGUST 23, 1978.

Take notice that Colorado Interstate Gas Co. (CIG) on August 15, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, to be effective October 1, 1978. The increased jurisdictional cost of purchased gas proposed to be recovered by the filing amounts to approximately $94.8 million. Such amount reflects the increased jurisdictional cost of gas in this application over the amount contained in CIG's general rate filing in docket No. RP78-51, which is likewise to be effective October 1, 1978.

In addition, the proposed tariff changes would establish a "Gas Research Institute Charge Adjustment Provision" in CIG's FERC gas tariff and provide for the collection by CIG of $0.0012 per Mcf for sales to and transportation deliveries for distributors for resale and pipelines which are not members of Gas Research Institute (GRI). Pursuant to the tariff changes proposed, CIG would be obligated to remit such charges to GRI within 30 days of collection. CIG avers that the collection and remittance procedure provided in the proposed tariff changes and the $0.0012 per MCf charge are consistent with and permissible under the Commission's opinion No. 11 issued in docket No. RM77-14 on March 22, 1978.

Copies of CIG's filing have been served upon the company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before September 15, 1978. Protest will be considered by the Commission in determining the appropiate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24561 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-476]

COLUMBIA GAS TRANSMISSION CORP.

Application

AUGUST 24, 1978.

Take notice that on August 7, 1978, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in docket No. CP78-476 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 400 Mcf of natural gas per day for Fruehauf Corp. (Fruehauf), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 400 Mcf of natural gas per day for Fruehauf for a 2-year period, which gas Fruehauf would purchase from its energy subsidiary FrueKel, Inc. (FrueKel) at a price of $1.95 per Mcf. It is stated that FrueKel has drilled its own wells for the expressed purpose of supplying gas to Fruehauf's plant; and FrueKel has no intention of selling this gas to any other party in interstate or intrastate commerce. Applicant indicates that it would receive such gas from FrueKel into its line 0-1460 in Tuscarawas County, Ohio, and line FO-1618 in Guernsey County, Ohio, and would deliver such volumes to Texas Eastern Transmission Corp. (TETCO) by reducing Applicant's scheduled receipts from TETCO at existing points of delivery in Ohio. It is stated that TETCO would, by displacement, deliver such volumes of gas to Consolidated Gas Supply Corp. (Consolidated), and Consolidated would in turn, by displacement, deliver such gas to Niagra Mohawk Power Corp. (Niagra Mohawk), the natural gas supplier to Fruehauf's Utica, N.Y. facility, for ultimate delivery to Fruehauf's Utica plant through existing distribution facilities.

It is stated that Fruehauf would use the subject gas for priority 2 purposes, specifically for use in direct gas-fired drying ovens, makeup fire and related operations wherein a clean burning fuel is required and necessary. Present technology does not permit the burning of alternate fuels for such operations, it is said.

Applicant states that it would charge Fruehauf a transportation charge for all volumes delivered into its line 0-1460 its average systemwide unit storage and transmission costs exclusive of company-use and unaccounted-for gas, which rate is currently 23.05 cents per Mcf; for all volumes delivered into its line FO-1618 the transportation charge would be Applicant's average systemwide unit gathering, storage, and transmission cost exclusive of company-use and unaccounted-for gas which rate is currently 25.95 cents per Mcf. Applicant further states that it would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Fruehauf, which percentage is currently 2.51 percent.

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

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10), and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24562 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. RP72-134]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

AUGUST 23, 1978.

Take notice that Eastern Shore Natural Gas Co. (Eastern Shore) on August 10, 1978, tendered for filing the following revised tariff sheets:

To be Effective September 1, 1978.
Fifth Revised Sheets No. 5 and No. 6—Superseding Fourth Revised Sheets No. 5 and No. 6. Fifth revised Sheets No. 10, No. 11, and No. 12.

To be Effective September 2, 1978.
Sixth Revised Sheets No. 5 and No. 6—Superseding Fifth Revised Sheets No. 5 and No. 6. Sixth Revised Sheets No. 10, No. 11, and No. 12.

Eastern Shore states that the revised tariff sheets track a similar filing by Eastern Shore's sole supplier, Transcontinental Gas Pipe Line Corp.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding need not file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24563 Filed 8-30-78; 8:45 am]

[6740-02]

[Project No. 2830]

TOWN OF MADISON ELECTRIC WORKS DEPARTMENT

Application for Preliminary Permit

AUGUST 23, 1978.

Take notice that an application for a preliminary permit was filed on December 13, 1977, under the Federal Power Act (16 U.S.C. 791a-825r) by the town of Madison Electric Works Department, Maine (Correspondence to: Norman E. Sawyer, Superintendent, Madison Electric Works, 26 Weston Avenue, Madison, Maine 04905; and to R. W. Beck and Associates, 200 Tower Building, Seattle, Wash. 98101) for the proposed Kennebec River Hydroelectric Project, FERC No. 2830. The proposed project would be located on the Carrabassett, Kennebec, and Big Sandy Rivers, in Somerset County, near the town of Madison, Maine.

The proposed project would consist of the following five developments:

(1) *Carrabassett Hydroelectric Plant*—This development would be located 5 miles west of North Anson, Maine, on the Carrabassett River and would consist of: (1) An earth and rockfill enbankment dam 75 feet high and 2,500 feet long; (2) a saddle dike 10 to 15 feet high and 6,000 feet long; (3) a spillway; and (4) a powerhouse with an installed capacity of 12 MW. The dam, in addition to providing flow for power generation at the site, would provide storage for stream flow regulation.

(2) *North Anson Hydroelectric Plant*—This development would be located at North Anson, Maine, on the Carrabassett River and would consist of: (1) A concrete gravity overflow dam 35 feet high and 200 feet long; and (2) a powerhouse with an installed capacity of 5.5 MW. The development would be operated as run-of-the-river.

(3) *Madison Hydroelectric Plant*—This development would be located on the Kennebec River 1.5 miles downstream of Madison, Maine, and would consist of: (1) A concrete gravity weir 30 feet high and 800 feet long; and (2) a powerhouse with an installed capacity of 18 MW. The development would be operated as run-of-the-river.

(4) *Somerset Hydroelectric Plant*—This development would be located 5 miles west of Norridgewock, Maine, on the Big Sandy River and would consist of: (1) An earth and rockfill dam 100 feet high and 2,600 feet long; (2) a spillway; and (3) a powerhouse with an installed capacity of 22.5 MW. The project, in addition to providing flow for power generation at the site, would provide storage for stream flow regulation.

(5) *Big Sandy Hydroelectric Plant*—This development would utilize an ex-

isting unlicensed project. The development, located approximately 1 mile south of the confluence of the Big Sandy and Kennebec Rivers, would consist of: (1) Enlarging an existing dam to 45 feet in height and 400 feet long; (2) an existing powerhouse the capacity of which would be expanded to about 10 MW. The project would be operated as run-of-the-river.

The power from the five developments would be utilized to meet present and future electric energy requirements of the residential members served by the Applicant. Surplus power would be sold to, or exchanged with, neighboring electric utilities. The Applicant owns and operates two distribution systems in both Madison and Anson and in adjacent areas in Somerset County, Maine.

A preliminary permit does not authorize any construction. A permit, if issued, gives the permittee during the period of the permit the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineeting and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license. In this instance, Applicant seeks a 36-month permit.

Any person desiring to be heard or to make any protest about this application should file with the Federal Energy Regulatory Commission, a petition to intervene or a protest, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.18 or 1.10 (1977). In determining the appropriate action to take the Commission will consider all protests filed, but a person protesting does not become a party to the proceeding. Any person wishing to become a party, or to participate in any hearing, in this proceeding must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 31, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24564 Filed 8-30-78; 8:45 am]

[6740-02]

[Project No. 2831]

THE CITY OF MARTINSVILLE

Application for Preliminary Permit

AUGUST 23, 1978.

Take notice that an application for a preliminary permit was filed on December 29, 1977, under the Federal Power Act (16 U.S.C. 791a-825r) by the city of Martinsville, Va. (Correspondence to: Mr. Robert I. Corekin, Director of Electrical Department, P.O. Box 1112, Martinsville, Va. 24112; and Mr. J. V. Williamson, partner, R. W. Beck & Associates, 200 Tower Building, Seattle, Wash. 98101). The proposed Martinsville Project No. 2831, consisting of three developments: Ridgeway, Foster Falls, and a redevelopment of the unlicensed existing Martinsville hydroelectric project. The proposed project would be located on the Smith and New Rivers in the counties of Henry and Wythe, Va. near the city of Martinsville and the town of Barren Springs.

The proposed Ridgeway Development—to be located on the Smith River, approximately 10 miles downstream from the city of Martinsville—would consist of: (1) A 100-foot-high earth-fill dam; (2) a 13-mile-long reservoir, with 3,000 acre-feet of storage at a normal maximum pool elevation of 640 feet; and (3) a powerhouse with two hydroelectric generating units totaling 17 megawatts (MW) installed capacity, to be located in the left dam abutment.

The proposed Foster Falls Development—to be located on the New River near the town of Barren Springs—would consist of: (1) A concrete dam; (2) a 6-mile-long reservoir, with normal maximum pool elevation of approximately 1,900 feet; and (3) a powerhouse with an installed capacity of 7 MW, to be located on the right dam abutment.

The Martinsville Development would consist of a redevelopment of the unlicensed existing Martinsville hydroelectric project—located on the Smith River near the city of Martinsville—modified by constructing a new powerhouse with an installed capacity of 3 MW, to be located in the left dam abutment. The required additional 500 acre-feet pondage would be obtained either by dredging the existing reservoir, by raising the dam, or by constructing a small re-regulating facility upstream.

The power from the three developments would be used by the city of Martinsville to meet part of its own anticipated load requirements. Any surplus power would be sold to, or exchanged with, neighboring electric utilities.

A preliminary permit does not authorize any construction. A permit, if issued, gives the permittee during the period of the permit the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license. In this instance, applicant seeks a 36-month permit.

Any person desiring to be heard or to make any protest about this application should file with the Federal Energy Regulatory Commission, a petition to intervene or a protest, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8, 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person protesting does not become a party to the proceeding. Any person wishing to become a party, or to participate in any hearing, in this proceeding must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 31, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24565 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. RP72-154]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Purchased Gas Cost Adjustment

AUGUST 23, 1978

Take notice that Northwest Pipeline Corp., on August 16, 1978, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FERC Gas Tariff, Original Volume No. 1. Such change in rates is for the purpose of reflecting changes in Northwest's cost of purchased gas which will become effective by October 1, 1978, applied to volumes purchased for the twelve (12) month period ending June 30, 1978, as adjusted, and its change in unrecovered purchased gas costs since Northwest's prior semiannual PGAC filing dated February 15, 1978.

The current PGAC adjustment, for which notice is given herein, aggre-

gates to an increase of 0.436 cents per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas cost aggregates a decrease of $19,758,779. Northwest proposes to recover, through a surcharge, the adjusted balance of $19,064,949 in its FERC Account No. 191, as of June 30, 1978. The proposed change in rates would increase Northwest's annual revenues from jurisdictional sales and service by $15,718,572.

Northwest is concurrently filing notices of change in rates applicable to the currently effective § 13.4, Change in Rates to Reflect Curtailment Credits and section 17, Gas Research Institute Charge Adjustment Provision, contained in its Original Volume No. 1 Tariff. In accordance with Articles 13.4 and 17 contained in the aforementioned tariff, the current rate adjustment under the Demand Charge Credit Adjustment provision and Gas Research Institute Charge Adjustment Provision become effective on Northwest's PGAC adjustment date. Accordingly, all three rate adjustments are reflected on the tendered Substitute 20th Revised Sheet No. 10, which is proposed to become effective on October 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24566 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-556]

PACIFIC POWER & LIGHT CO.

Filing

AUGUST 22, 1978.

Take notice that on August 14, 1978, Pacific Power & Light Co. (Pacific) tendered for filing a service agreement under its FPC Electric Tariff, original volume No. 2 for the following additional customer: Purchaser: Public Service Co. of New Mexico. Date of execution: July 14, 1978.

Pacific has requested a waiver of the notice requirements of the Commission's regulations to allow this schedule to become effective as of July 14, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.0). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24552 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-557]

PACIFIC POWER & LIGHT CO.

Filing

AUGUST 22, 1978.

Take notice that Pacific Power & Light Co. (Pacific) on August 14, 1978, tendered for filing, in accordance with § 35.12 of the Commission's regulations, a new rate schedule for provisional power sales to Pasadena Water and Power Department, Pasadena, Calif.; Public Service Department, city of Burbank, Calif.; city of Glendale Public Service Department, Glendale, Calif.; and Department of Water and Power of the city of Los Angeles, Calif.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective as of July 21, 1978.

Copies of the filing are being supplied to the purchasers, according to Pacific.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24553 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-487]

PANHANDLE EASTERN PIPE LINE CO.

Application

AUGUST 25, 1978.

Take notice that on August 18, 1978, Panhandle Eastern Pipe Line Co. (Applicant), P.O. Box 1642, Houston, Tex., filed in docket No. CP78-487 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain compressor, pipeline, and related facilities on its existing gas supply system in Oklahoma, Texas, and Kansas and to construct and operate compressor units appurtenant to its existing gathering lines, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant states that it has experienced continuing decline in reservoir pressures within its traditional gas production area. Applicant requests authorization to construct, place in service and operate, over a 2-year period, the following:

(1) *Meade County, Kans.*—Two and three-tenths (2.3) miles of eight-inch (8-inch) and four-tenths (0.4) mile of ten-inch (10-inch) pipelines.

(2) *Grant and Haskell Counties, Kans.*—Three and six-tenths (3.6) miles of eight-inch (8-inch) and two and one-tenth (2.1) miles of ten-inch (10-inch) pipelines.

(3) *Seward and Stevens Counties, Kans.*—(Seward System).—Seven and five-tenths (7.5) miles of twelve-inch (12-inch) pipeline, and the establishment of the Southwest Woods Compressor Station to contain 1,800 horsepower. 600 horsepower for the Southwest Woods Station would be new equipment, and the remaining 1,200 horsepower would be relocated to Southwest Woods from the existing Woods Compressor Station.

(4) *Stevens and Morton Counties, Kans.*—(Hugoton System).—The addition of 4,200 horsepower to the Hugoton Compressor Station, and the establishment of the Bane Compressor Station to contain 1,800 horsepower, the Israel Compressor Station to contain 1,200 horsepower and the South McAtee Compressor Station to contain 1,800 horsepower, along with two-tenths (0.2) mile of six-inch (6-inch) pipeline, six (6.0) miles of eight-inch (8-inch) pipeline, five-tenths (0.5) mile of ten-inch (10-inch) pipe-

line and eleven and four-tenths (11.4) miles of sixteen-inch (16-inch) pipeline.

(5) *Texas County, Okla.*—(Rolla-Richland System).—The establishment of the S.E. Tracy Compressor Station to contain 1,400 horsepower, which would be relocated to the S.E. Tracy Station from the Mouser Compressor Station, and the addition of 600 horsepower to the Gloden Compressor Station, along with seven-tenths (0.7) mile of eight-inch (8-inch) pipeline.

(6) *Texas County, Okla.*—(Hooker System).—The Mouser Compressor Station would be reequipped with 2,800 horsepower of new multistage compression, and 1,400 single stage horsepower presently utilized at the Mouser Compressor Station would be relocated to the proposed S.E. Tracy Compressor Station.

(7) *Moore and Carson Counties, Tex.*—(West Panhandle System).—Pursuant to the Commission's order in docket No. CP77-619, Applicant was authorized to construct and place in service 1,400 compression horsepower of new facilities at the Poling Compressor Station. It has been determined that presently existing facilities at the Denson II Compressor Station can be relocated to the new Poling Compressor Station and these facilities would provide service equal to new facilities. Applicant would file with the Commission an application to amend the order previously issued by the Commission in Docket No. CP77-619. The amendment would request authority for the relocation of the facilities presently utilized at the Denson II Compressor Station to the Poling Compressor Station. In the event Applicant is authorized to relocate the present compression facilites at the Denson II Compressor Station to the Poling Compressor Station, then by this application Applicant requests authority to place in service 1,500 horsepower of new compression facilities at the Denson II Compressor Station.

(8) *Dewey, Major, and Woods Counties, Okla.*—(Elk City System).—The establishment of the Angell Compressor site to contain 100 horsepower, the establishment of the Burton Compressor site to contain 100 horsepower, the establishment of the Aledo Compressor Station to contain 1,200 horsepower, along with three and one-tenth (3.1) miles of six-inch (6-inch) pipeline.

Applicant states that the purpose of the above construction is to augment and supplement existing facilities and to enable Applicant to meet existing contractual obligations. Applicant states that the proposed compressors would be constructed on existing sites and that the proposed pipeline would be constructed within existing rights-of-way or parallel to existing rights of way in its Oklahoma, Texas, and Kansas gas supply areas. The total estimated cost of the proposed facilities, Applicant states, is $21,717,000, to be financed from internally generated funds and short-term bank borrowings as necessary.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24549 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-483]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Application

AUGUST 24, 1978.

Take notice that on August 15, 1978, South Texas Natural Gas Gathering Co., Five Greenway Plaza East, Houston, Tex. 77046 (Applicant), filed in Docket No. CP78-483, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a mainline compressor at the junction of its North Monte Christo 10-inch lateral and 14-inch main transmission line, Hidalgo County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of the proposed facilities, Applicant states, is to comply with the Department of Transportation's safety requirements for natural gas pipelines, which require Applicant to install a 40-horsepower compressor unit and drop the maximum allowable operating pressure on its 14-inch mainline from psig to 750 psig. Applicant asserts that the estimated cost of its proposed facilities is $55,190, which Applicant states would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24569 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP71-276]

SOUTHERN NATURAL GAS CO.

Tariff Filing

AUGUST 23, 1978.

Take notice that on August 8, 1978, Southern Natural Gas Co. (Southern) filed Original Sheet Nos. 45K and 45L to its FERC Gas Tariff, Sixth Revised Volume No. 1. Southern states that in Opinion No. 786 the Federal Power Commission (FPC) [1] approved a settle-

[1] This proceeding commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

ment agreement submitted by Southern in the captioned proceeding. Southern states that its August 8, 1978, filing is in compliance with and implements article III of the settlement, providing Southern's resale customers with the option of taking a portion of their gas allocation in liquid form when imported liquefied natural gas (LNG) is received at Southern Energy Co.'s Elba Island Terminal, Chatham County, Ga. Copies of the tariff sheets are on file with the Commission and available for public inspection.

On July 10, 1978, Southern is said to have advised its customers and the commission that Southern Energy Co. placed its facilities to receive, store, and regasify LNG in service and commenced initial deliveries of regasified LNG to southern. Southern states further that the proposed effective date of August 11, 1978, of its filing is intended to coincide with the first availability of LNG in liquid form following start-up deliveries of imported LNG into its system.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before September 1, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24554 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-484]

SOUTHERN NATURAL GAS CO.

Application

AUGUST 24, 1978.

Take notice that on August 16, 1978, Southern Natural Gas Co. (applicant), First National-Southern Natural Building, Birmingham, Ala. 35203, filed in docket No. CP78-484 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct, install, and operate certain facilities for the measurement of gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that as part of its permanent curtailment plan, approved by the Commission in its Opinion No. 5 on November 17, 1977, one of Applicant's customers, Atlanta Gas Light Co. (Atlanta), is entitled to take its daily allocation of gas through any delivery point as necessary to meet Atlanta's requirements. Applicant further states that Atlanta has requested an increase in the amount of gas delivered to it at Applicant's Augusta No. 2 Meter Station to service the Columbia Nitrogen Corp. The present capacity of this station Applicant states is insufficient to accommodate the level of service Atlanta desires. Consequently, Applicant requests authorization to construct and install the necessary facilities to increase the capacity of the Augusta No. 2 Meter Station from 50,000 Mcf per day to 90,000 Mcf per day.

In order to increase the capacity of the meter station, Applicant asserts that it is necessary to reconstruct the meter station. Applicant estimates the cost to be $60,030, and asserts that Atlanta has agreed to reimburse Applicant for the actual cost of the facilities constructed.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24550 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. RP78-36]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 24, 1978.

Take notice that Southern Natural Gas Co. (Southern), on August 16, 1978, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1. The effect of the revised tariff sheet is to incorporate the current level of purchased gas costs as represented in Southern's purchased gas adjustment (PGA) filing of August 3, 1978, in docket No. RP73-64 in the revised tariff sheets filed in docket No. RP78-36 on June 30, 1978. These tariff sheets were accepted for filing by the Commission's letter order of July 31, 1978, and the revised tariff sheets tendered by Southern are in compliance with said letter order.

On January 30, 1978, Southern filed a general rate increase in docket No. RP78-36 proposed to become effective on March 1, 1978. By its order issued February 27, 1978, the Commission accepted the revised tariff sheets for filing and suspended their use until August 1, 1978, subject to the condition that:

> On or before August 1, 1978, Southern shall file substitute tariff sheets and supplemental cost and revenue data in accordance with the Commission's rules and regulations, reflecting the elimination of all costs associated with facilities which will not be placed in service by August 1, 1978, or with the purchase of LNG if the LNG is not on stream by August 1, 1978.

On June 30, 1978, Southern filed revised tariff sheets and amended sheets to statements A through K of its application in docket No. RP78-36. By letter order of July 31, 1978, the Commission accepted for filing the tariff sheets filed on June 30, 1978, in substitution for those tendered on January 30, 1978, in docket No. RP78-36, subject to Southern filing revised tariff sheets to reflect any changes made in docket No. RP73-64 (PGA78-2).

On August 3, 1978, Southern filed revised rates to be effective July 2, 1978, in compliance with the Commission's order of June 30, 1978 in docket

No. RP73-64 (PGA78-2). By letter order dated August 10, 1978, the Commission accepted the revised rates tendered on August 3, 1978, to be effective July 2, 1978. These changes have been reflected in Substitute Thirty-First Revised Sheet No. 4A.

Southern requests that the proposed tariff sheet be allowed to be substituted for the tariff sheet accepted by the Commission's order of July 31, 1978. Since the proposed tariff sheet contains the same costs that were included in Southern's June 30, 1978, filing, modified in accordance with the Commission's July 31, 1978, order, Southern respectfully requests any such waivers as may be necessary to allow the proposed tariff sheet to be substituted for the tariff sheet filed on June 30, 1978. Southern further requests that the Commission issue an expeditious order accepting the proposed tariff sheet so that Southern may tender timely billing to its customers.

Copies of this filing have been served upon Southern's jurisdictional customers, interested State public service commissions, and all parties of record.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24551 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-558]

TAMPA ELECTRIC CO.

Filing

AUGUST 22, 1978.

Take notice that on August 14, 1978, Tampa Electric Co. (Tampa) tendered for filing an agreement for interchange service between the city of Vero Beach (Vero Beach) and Tampa. Tampa requests an effective date of September 1, 1978, and therefore requests waiver of the Commission's notice requirements.

According to Tampa copies of the filing were served upon Vero Beach and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24555 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket Nos. RP75-13, RP75-113, and RP76-137]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Refund Report

AUGUST 22, 1978.

Take notice that on August 14, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), tendered for filing a report on refunds made pursuant to the stipulation and agreement approved by the Commission's letter order of May 1, 1978, in this proceeding.

Tennessee states that it refunded to its jurisdictional customers the amounts set forth in the report. Tennessee further states that the report of refunds shows the principal, interest thereon, and total amount of refunds made to Tennessee's jurisdictional customers for the period from March 15, 1975, through December 31, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene: *Provided, however,* That any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24556 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. CP76-311]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Petition To Amend

AUGUST 23, 1978.

Take notice that on August 7, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Tex. 77001, filed in docket No. CP76-311 a petition to amend the order of October 5, 1976, as amended May 24, 1977, in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize a deferral until October 5, 1980, within which to install certain compression facilities, and to authorize Petitioner to continue to assume Continental Oil Co.'s (Continental) compressor rental charges at Gibbstown compression facilities, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.[1]

It is indicated that pursuant to the order of October 5, 1976, Petitioner was authorized to construct and operate, inter alia, a compressor station consisting of two 660-horsepower compressors, metering and dehydration facilities to be located on an existing 12-inch line at Oak Grove, La. The compressors, together with other facilities certificated by the Commission, were designed to enable Petitioner to attach and move onshore gas reserves committed to Petitioner by Atlantic Richfield Co. (Arco), Getty Oil Co. (Getty), and Continental from West Cameron Blocks 34, 35, 66, and 67, Offshore Louisiana (West Cameron Block 66 Field), it is said. Petitioner indicates that it is obligated to furnish such compression under the terms of a gas purchase and sales agreement with Continental dated June 17, 1976. The October 5, 1976, order required such compression to be installed within 1 year of that date, it is said. Pursuant to the amending order of May 24, 1977, Petitioner was granted authorization to defer installation of the Oak Grove facilities until October 5, 1978,

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.01), it was transferred to the Commission.

pending determination by Continental as to whether they would be needed. Such order also authorized Petitioner to assume Continental's portable compressor rental charges for gas compressed near Gibbstown, La., it is stated.

The petition states that Continental has advised Petitioner that unforeseeable difficulties in drilling well No. B-12 has resulted in a delay in bringing the West Cameron Block 66 "B" platform on stream by its scheduled completion date of August 1977, and that the West Cameron Block 66 Field "C" platform is not scheduled until 1979, with the possibility that a "D" platform may be required to develop fully the field.

Consequently, Petitioner requests that the Commission amend the order of October 5, 1976, as amended, so as to permit the deferral for up to another 2 years, until October 5, 1980, of the installation of Oak Grove compression facilities pending further determination by Continental as to whether such compression is to be later required. Petitioner also requests that it be authorized to continue to assume the rental charges for the Gibbstown compression facilities, approximately $13,800 per month.

Upon expiration of such 2-year deferral period, should such compression then be deemed to be required, Petitioner requests that it be permitted to install the Oak Grove compression facilities under the instant authorization, and that should such facilities be needed and subsequently installed by Petitioner, Continental would then assume the rental charges for the compression facilities at Gibbstown. Petitioner proposes to continue to assume the rental charges for the Gibbstown compression facilities as proposed herein should the Oak Grove compression not be required at such time.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24571 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket Nos. RP72-156 (PGA78-3); RP72-64 (DCA78-2)]

TEXAS GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

AUGUST 23, 1978.

Take notice that Texas Gas Transmission Corp. on July 27, 1978, tendered for filing as a part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Twenty-Fourth Revised Sheet No. 7.

This sheet is being filed, pursuant to the Commission's letter order issued July 17, 1978, to reflect a reduction in the cost of gas purchased from Texas Gas' pipeline suppliers which have occurred subsequent to the Texas Gas PGA filing made on June 14, 1978. The proposed effective date is August 1, 1978.

Copies of the filing were served on the company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24557 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket Nos. AR64-2 et al.]

TEXAS GULF COAST AREA RATE PROCEEDING ET AL.

Filing of Refund Distribution Plan

AUGUST 22, 1978.

In the matter of Texas Gulf Coast Area Rate Proceeding, docket Nos. AR64-2 et al.; Other Southwest Area Rate Proceeding, docket Nos. AR67-1 et al.; South Louisiana Area Rate Proceeding, docket Nos. AR61-2 and AR69-1 et al.

Take notice that on August 8, 1978, Florida Gas Transmission Co. (Florida Gas), P.O. Box 44, Winter Park, Fla. 32790, filed its revised plan for the distribution of refunds received from its producer-suppliers in compliance with the Commission order of June 30, 1978.

On January 19, 1978, Florida Gas submitted to the Commission its plan for disposition of supplier refunds. By letter of June 30, 1978, the Commission rejected Florida Gas' refund plan and directed Florida Gas to resubmit a plan consistent with the June 30, 1978, letter. In the June 30 letter the Commission stated "that the showing by Florida Gas for the RP66-4 'locked-in' period justifies the retention of $468,592."

According to Florida Gas, its refund plan submitted herein is consistent with the Commission's letter of June 30, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intevene: *Provided, however,* That any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24558 Filed 8-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-506]

WISCONSIN PUBLIC SERVICE CORP.

Order Provisionally Accepting Proposed Rate Schedules for Filing, Suspending Proposed Rate Increase, Establishing Procedures, Granting Intervention

AUGUST 24, 1978.

On July 25, 1978, Wisconsin Public Service Corp. (WPS) tendered for filing proposed changes to its agreements with nine full requirements customers [1] and a proposed increase in

[1] City of Algoma, city of New Holstein, village of New Stratford, city of Two Rivers,

Footnotes continued on next page

rates to its partial requirements customers.[2] The tendered rates for the nine full requirements customers depart from the previous rate structure in that they contain a conversion to time-of-use rates. The existing tariff for the partial requirements customers already specifies time-of-use rates.[3] The resulting increase in revenues amounts to approximately $1,056,936 (6.7 percent) based on estimated sales for the year ending June 30, 1979.

Notice of the filing was issued on July 28, 1978 with responses due on or before August 11, 1978.

On August 14, 1978 an untimely Motion to Reject, and Petition to Intervene was filed by the cities of Algoma, Eagle River, Manitowoc, New Holstein, Sturgeon Bay, Two Rivers, and the village of Stratford, Wis., and the city of Stephenson, Mich. (Petitioners), all wholesale customers of WPS. The Petitioners seek rejection of WPS's filing as violative of the *Mobile-Sierra* doctrine,[4] suspension of the filing for the maximum statutory period, intervention herein, and reservation of the right to amend this petition to plead a price squeeze after a more comprehensive analysis of WPS's filing.

The Petitioners urge the Commission to independently examine each of the contracts between WPS and the customers and to reject the filing for those customers with Mobile-Sierra contracts.[5] Petitioners further contend that the contracts by and between WPS and Algoma, New Holstein, and Two Rivers do not contemplate unilateral rate changes by WPS.

We acknowledge the responsibility to ascertain whether proposed rate increases conflict with any existing contractual arrangements between the parties regardless of whether they have raised the issue in the pleadings. However, this determination requires a thorough analysis. Consequently, the Commission at this time will not rule on the *Mobile-Sierra* issue, but will further analyze the relevant contracts and will rule no later than the effective date of the proposed rates. WPS may respond to Petitioners' allegation that the contracts are fixed rate contracts. However, at this time, WPS's filing will be provisionally accepted subject to our resolution of the *Mobile-Sierra* issue.[6]

In addition, Petitioners seek to reserve the price squeeze issue, pleading lack of time to adequately analyze this question in their petition for intervention. However, one of the purposes of 18 CFR 2.17 is to provide expedited price squeeze discovery procedures. In this regard, the specificity of § 2.17 overrides the general provisions of 18 CFR 1.11 permitting amendment of pleadings until shortly before the beginning of hearings. Moreover, to the extent that price squeeze serves as a basis for a Commission decision as to whether a filing should be suspended, price squeeze allegations, like other issues raised in petitions to intervene, must be before the Commission at the time the Federal Power Act requires action on rate filings. The rule enunciated in *Monongahela Power Co.*[7] is equally applicable here. There, we indicated an intent to require strict compliance with § 2.17 of our Regulations, and that the allegations specified in that section (viz., price discrimination and anticompetitive effect) be contained in petitions to intervene if the issue is to be raised by intervenors. However, in light of the fact that some deviation from this practice has been permitted in the past. We will grant an exception in this case and allow Petitioners' 20 days within which to submit supplementary pleadings containing the price squeeze allegations required by § 2.17. If Petitioners fail to file such allegations, price squeeze will not be an issue in this case.

We conclude that Petitioners are interested parties within the meaning of 18 CFR 1.8 and that good cause exists to permit late intervention in this proceeding.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Therefore, the Commission shall provisionally accept the submittal for filing and suspend the proposed rates for 5 months, after which the rates and services will go into effect on January 25, 1979, subject to refund.

The Commission finds:

It is necessary and in the public interest that an evidentiary hearing be held in this docket in order for the Commission to discharge its responsibilities under sections 205 and 206 of the Federal Power Act.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate increase proposed by Wisconsin Public Service Corp. in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Wisconsin Public Service Corp. on July 25, 1978, are hereby provisionally accepted for filing, suspended and the use thereof deferred until January 25, 1979, when they shall become effective, subject to refund.

(C) The staff shall prepare and serve top sheets on all parties for settlement purposes on or before December 4, 1978.

(D) An administrative law judge to be designated by the chief administrative law judge shall preside at a prehearing conference in this proceeding to be held on December 14, 1978, at 10 a.m., in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(E) As set forth above, within 20 days from the issuance of this order, Petitioners may amend their petition to intervene to set forth the allegations of price squeeze required by 18 CFR 2.17; otherwise, the issue of price squeeze will not be involved in this proceeding absent extraordinary circumstances developed during the course of the hearing herein ordered. In the event the petition to intervene is amended as herein permitted, the chief administrative law judge is hereby authorized to initiate the price squeeze procedures of 18 CFR 2.17 and to convene a conference for the purpose of discovery procedures as therein contemplated.

(F) The Petitioners (cities of Algoma, Eagle River, Manitowoc, New Holstein, Sturgeon Bay, and Two Rivers, and the village of Stratford, Wis., and the city of Stephenson, Mich.) are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That participation by such intervenors shall be

---

Footnotes continued from last page
city of Eagle River, village of Daggett, village of Stephenson, Alger-Delta Cooperative Electric Association and city of Sturgeon Bay. (See Attachment A for Rate Schedule Designations).

[2] Consolidated Water Power Co. and city of Manitowoc. (See Attachment A for Rate Schedule Designations).

[3] In Docket No. ER77-474 (Consolidated Water Power Co.) and Docket No. ER78-454 (city of Manitowoc).

[4] A contractual rate cannot be increased until this Commission first determines that it is "'so low as to conflict with the public interest". *F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *F.P.C.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956).

[5] Petitioners cite, *Sam Rayburn Dam Electric Cooperative* v. *F.P.C.*, 515 F. 2d 998, 1009 (D.C. Cir. 1975).

[6] *Louisiana Power & Light Co.*, Docket No. ER77-533, order issued August 26, 1977.

[7] *Monongahela Power Co.*, Docket No. ER78-484, order issued August 10, 1978.

limited to matters set forth in their petition to intervene. *And provided further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24570 Filed 8-30-78; 8:45 am]

[6740-02]

[Project No. 2197]

YADKIN, INC.

Application for Approval of Easement Over Project Lands

AUGUST 22, 1978.

Take notice that an application was filed on July 19, 1978, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by Yadkin, Inc. (Correspondence to: Ronald D. Jones, Esq. LeBoeuf, Lamb, Leiby & MacRae, 140 Broadway, New York, N.Y. 10005) for Commission approval of the grant of an easement over lands of the Yadkin Project, FERC No. 2197, to the Colonial Pipeline Co. The Yadkin Project is located on the Yadkin River in Stanly, Montgomery, Davie Davidson, and Rowan Counties, N.C.

Applicant requests approval of the grant of a permanent easement to Colonial for the purpose of constructing a 40-inch pipeline across project lands and waters in Davidson and Rowan Counties, N.C. The segment of pipeline to cross project lands and waters is only a part of a pipeline that would extend from Atlanta, Ga., to Greensboro, N.C. Once completed, the pipeline would transport refined liquid petroleum. The pipe would be buried in the bed of the Yadkin River with a minimum of 5 feet of earth cover throughout the 807-foot-long river crossing. There are currently three existing pipelines located immediately adjacent to the proposed pipeline site.

Any person desiring to be heard or to make any protest with reference to this application should, on or before September 15, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). The Commission will consider all protests filed with it in determining the appropriate action to be taken, but protests will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing in this proceeding must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24559 Filed 8-30-78; 8:45 am]

[3128-01]

Office of Hearings and Appeals

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of June 12 Through June 16, 1978

Notice is hereby given that during the week of June 12 through June 16, 1978, the decisions of orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Copies of the full text of these decisions and orders are availabe in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also availabe in Energy Management: Federal Energy Guidelines, a commercially published looseleaf reporter system.

Dated: August 25, 1978.

MELVIN GOLDSTEIN,
Director,
Office of hearings and Appeals.

DEPARTMENT OF ENERGY, OFFICE OF HEARINGS AND APPEALS WASHINGTON, D.C.

DECISION LIST

June 16, 1978, No. 37

APPEALS

Louis K. Bell, Augusta, Ga., DFA-0175, Privacy Act

Louis K. Bell (Bell) appealed from a denial by the DOE Privacy Act Officer of a request for amendment of records which Bell had filed under the Privacy Act of 1974. Bell's request related to four documents which were compiled during the course of an investigation of Bell Oil Co.'s compliance with the mandatory petroleum allocation and price regulations. Bell was the president and treasurer of Bell Oil Co. at the time the documents were prepared. In considering the Bell appeal, the DOE indicated that the Privacy Act was designed to provide certain safeguards for individuals with respect to personal information which Federal agencies maintain about those individuals. The DOE also found that for purposes of the Privacy Act a business enterprise was not considered an "individual." After reviewing the four documents at issue, the DOE determined that the documents were generated during the course of a lawful investigation of Bell Oil Co's compliance with the agency's allocation and price regulations and that none of the documents was compiled for the purpose of investigating Bell in an individual capacity. The DOE concluded that since the documents concerned the Bell Oil Co., not Bell personally, they did not qualify as "information about an individual" and therefore did not fall within the purview of the Privacy Act. Accordingly, Bell's appeal was denied.

Berry Holding Co.; Independent Oil Producers' Agency, Fresno, Calif., FRA-1394; FEA-1375, crude oil

Berry Holding Co. (Berry) and the Independent Oil Producers' Agency (IOPA) filed appeals from a remedial order and an ancillary remedial order which had been issued to the respective firms by FEA Region IX. In the remedial order which was issued to Berry, FEA Region IX found that the firm had improperly classified two of its properties as stripper well properties and had therefore sold the crude oil produced from those properties at prices which exceeded the ceiling price level specified in 10 CFR 212.73. In addition, the remedial order found that Berry had received a premium in excess of the applicable posted price for certain crude oil produced from those properties. In order to remedy these violations, the remedial order directed Berry to refund overcharges totaling $3,407,540 to IOPA, the purchaser of the crude oil produced by Berry. In turn, the ancillary remedial order which was issued to IOPA directed that firm to remit the entire amount of the refund which it received from Berry to the Union Oil Co. of California (Union). Since the two appeals concerned related issues, they were consolidated for decision. In considering the appeal, the DOE affirmed its previous holdings that Berry could have not reasonably have construed section 210.32 of the FEA regulations as permitting it to consider any well which produced crude oil for a portion of the calendar year to have produced crude oil for the entire year for purposes of determining whether the property qualified as a stripper well property. See *Berry Holding Co.*, 5 FEA Par. 80,638 (May 24, 1977); *Berry Holding Co.*, 4 FEA Par. 83,167 (October 26, 1976). In addition, the DOE found that the legislative history of the stripper well exemption demonstrated that Congress intended for the exemption to be strictly interpreted so as to preclude firms from manipulating its provisions and obtaining benefits which Congress did not intend to confer. In addition the DOE determined that ruling 1975-12 merely served to clarify the meaning of the stripper well exemption by interpreting it in light of the underlying congressional intent, and therefore rejected Berry's argument that ruling 1975-12 constituted a retroactive modification of the agency's regulations.

Both Berry and IOPA also contested the finding in the remedial order that the premium which Berry received from IOPA did not qualify as part of the posted price for the crude oil produced from Berry's properties. The DOE rejected this contention,

noting that since December 6, 1973, the date the Cost of Living Council published a definition of "posted price," the public has been on notice that the term did not include premiums or bonuses above the posted price which may have been paid for crude oil on May 15, 1973. The DOE also noted that prior to that date the posted price was a widely used convention in the petroleum industry and the appellants should have been aware that the term referred only to those crude oil price bulletins which were widely circulated and did not include premiums. In addition, the DOE found that the contract between IOPA and Berry itself expressly distinguished between the applicable posted price and the premium which IOPA would pay for the crude oil. However, the DOE determined that the remedial order should be remanded to the Director of Enforcement of DOE Region IX with instructions to make further findings regarding the exact amount of the premium which Berry received and to order Berry to refund that amount to IOPA. In turn, IOPA would be required to pass through those refunds to Union. Accordingly, the appeals were granted in part and denied in part.

Buck's Butane & Propane Service, Inc., San Jose, Calif., DRA-0173, propane

Buck's Butane & Propane Service, Inc. (Buck's) filed an appeal from a revised remedial order which was issued to the firm by DOE Region IX on March 21, 1978, pursuant to the decision in *Buck's Butane & Propane Service, Inc.*, 1 DOE Par. 80,119 (November 15, 1977). In the November 15 determination, a prior remedial order was remanded to the Region IX Office with instructions to reduce Buck's refund obligation by the amount of certain voluntary refunds which the firm had made to its customers. Despite these express instructions, the revised remedial order found that Buck's was not entitled to offset the voluntary refunds in question against its total refund obligation and directed Buck's to refund the full level of overcharges specified in the prior remedial order. In its appeal, Buck's contended that the determination reached in the revised remedial order was arbitrary and capricious and contrary to the findings of the November 15 appeal decision. In considering this contention, the DOE noted that the Region IX Office had apparently ignored the findings of fact contained in the November 15 decision and order. The DOE further observed that the region's course of conduct was not based upon the discovery of any new facts but instead rested on its disagreement with the November 15 determination. Since the findings reached in appeal decisions issued by the DOE Office of Hearings and Appeals and its predecessor offices are binding determinations of the agency, the DOE found that the position of the Region IX Office in this matter was improper. On the basis of the full record in the Buck's enforcement matter, the DOE concluded that the revised remedial order should be rescinded and that the Office of Enforcement should be directed to issue no further remedial orders to Buck's for the period of time covered in the March 21 Order. Accordingly, the Buck's appeal was granted.

Meridian Oil Corp., San Antonio, Tex., DIA-0131, crude oil

Meridian Oil Corp. appealed from an interpretation issued to it by the General Counsel of the DOE on December 19, 1977. Interpretation 1977-46, 43 FR 1479 (January 10, 1978). Meridian had sought an interpretation holding that a new oil and gas lease executed in December 1976 and covering a tract on which a producing well was already located constituted a separate property. In the interpretation, the General Counsel found no basis to support Meridian's treatment of the December 1976 lease agreement as a separate property. In considering Meridian's appeal of the interpretation, the DOE determined that the term "property" as used in the DOE regulations is generally synonymous with the physical premises described in the governing oil and gas lease or in the instrument conveying the fee interest. While the DOE recognized that the December 1976 instrument constituted a new lease agreement, the DOE further found that this agreement governed the same physical tract encompassed by the original lease and therefore did not constitute a separate property for purposes of the DOE regulatory program. Accordingly, the Meridian appeal was denied.

O. B. Mobley, Jr., Lafayette County, Ark., DIA-0170, crude oil

Mr. O. B. Mobley, Jr. (Mobley) appealed from interpretation 1978-6, which the General counsel of the DOE issued to him on April 18, 1978. In the interpretation, the General Counsel determined that Mobley is required to calculate the base production control level (BPCL) of the Lewisville Smackover Lime Unit (Lewisville Unit) in the manner specified in section 212.72 of the mandatory petroleum price regulations. The appeal, if granted, would have resulted in the rescission of the April 18 interpretation, thereby permitting Mobley to calculate the Lewisville Unit's BPCL under the provisions of 10 CFR 212.75. In its appeal Mobley contends that section 212.75 was intended to apply retroactively to enhanced recovery crude oil production units formed prior to the promulgation of section 212.75 on February 1, 1976. After considering Mobley's appeal, the DOE noted that ruling 1977-2 specified that section 212.75 does not include enhanced recovery units formed prior to February 1, 1976. The DOE also noted that Mobley had not challenged the well-established principle of administrative law that a regulatory agency may clarify unsettled law retroactively through rulings of an interpretative nature. Based upon the considerations above, the appeal was denied.

Northeast Petroleum Industries, Inc., Chelsea, Mass., DFA-0184, freedom of information

Northeast Petroleum Industries, Inc. (Northeast) appealed from a partial denial by the DOE Information Access Officer of a request for information which the firm had filed under the Freedom of Information Act (the Act). In its request for information, Northeast had sought copies of DOE documents relating to the use of Cost of Living Council (CLC) form 92. In response to this request, the Information Access Officer released portions of one document (the Biondi memorandum) but withheld the remainder of the document on the ground that it was exempt from disclosure as an intra-agency memorandum under exemption 5 of the Act. In considering Northeast's appeal, the DOE noted that, subsequent to the issuance of the Informtion Access Officer's partial denial of Northeast's request, the agency had determined that releasing the Biondi memorandum in its entirety would not be contrary to the public interest. *C. H. Sprague & Son, Inc.*, 1 DOE Par. —— (May 5, 1978). Based on this precedent, the DOE ordered the Information Access Officer to release the Biondi memorandum to Northeast. In addition, the DOE determined that Northeast had statisfactorily demonstrated that the agency possessed additional documents which were responsive to the firm's request for information but which were neither identified nor released by the Information Access Officer. Accordingly, the DOE ordered the Information Access Officer to conduct a further search for such documents and to release those documents which were not exempt from mandatory disclosure under exemption 5 of the Act.

Phillips Oil Operating Co., Enid, Okla., DRA-0114, crude oil

Phillips Oil Operating Co. (Phillips) appealed from a remedial order which DOE Region VI issued to the firm on December 20, 1977. In the remedial order, the DOE found that during the period September 1, 1973, through December 31, 1975, Phillips had sold crude oil produced from the Cogswell and State leases at prices in excess of the ceiling price levels specified in 10 CFR 212.73 Phillips challenged the determination in the remedial order that the firm had improperly treated each of the two wells on the State lease as three separate wells. Phillips argued in this respect that ruling 1975-12 is arbitrary and capricious and therefore invalid as applied to Phillips' operations. In rejecting these contentions, the DOE found that ruling 1975-12 is not arbitrary and that Phillips' argument is essentially a request that the Doe expand the scope of ruling 1975-12 to permit additional types of wells to be treated as multiple completion wells. Phillips also contended that a $0.15 premium which the firm charged should have been included in the posted price applicable to the Cogswell property. The DOE found that the premium did not reflect the market value of the crude oil involved but rather the value of a long-term guaranteed supply of crude oil. Therefore, the DOE held that the premium should not be considered as a component of the posted price. The Phillips appeal was accordingly denied.

Phillips Petroleum Co., Bartlesville, Okla. DRA-0001, crude oil

Phillips Petroleum Co. filed an appeal from a remedial order which the Regional Director of Compliance of FEA region VI issued to the firm on September 20, 1977. In that remedial order, the FEA found that Phillips had improperly certified its North Burbank Unit (the Unit) as a stripper well property in 1975 and sold crude oil produced from the Unit at prices which were in excess of the ceiling price levels specified in 10 CFR, Part 212, Subpart D. In reaching this determination, FEA region VI relied upon ruling 1975-12 as a basis for its calculation of the Unit's average daily production and its qualification for the stripper well lease exemption. In considering the Phillips Appeal, the DOE determined that the firm had failed to demonstrate that the FEA had intended ruling 1975-12 to apply only to primary recovery operations or that the manner in which the FEA had interpreted the terms "significant curtailment" and "maximum feasible rate of production" in ruling 1975-12 was unreasonable. The DOE

also rejected Phillips' arguments as to the propriety of the regional office's calculations of the Unit's average daily production. In this regard, the DOE determined that the regional office had correctly found that when Phillips shut in its wells or converted them into injection wells, they became nonproducing wells which could not properly be counted in calculating the Unit's average daily production. The DOE also determined that since ruling 1975-12 simply clarified existing law, it was exempt from the notice requirements for a rulemaking which are set forth in section 553 of the Administrative Procedure Act. The DOE further found that it was proper for the regional office to order Phillips to reduce the crude oil cost which it calculates under the refiner price regulations not only by the amount of its overcharges but also by the amount of interest attributable to those overcharges, in order to ensure that its downstream customers were fully compensated for the violation which occurred. However, the DOE concluded that it was necessary to remand that remedial order to the regional office for further review of Phillips' contention that the DOE had erred in calculating the amount of overcharges. Accordingly, except for this portion of the remedial order, the Phillips appeal was denied.

Shank, Irwin, Conant, Williamson & Grevelle, Dallas, Tex. DFA-0182, freedom of information

The law firm of Shank, Irwin, Conant, Williamson & Grevelle (Shank) appealed from two orders which were issued to the firm by the information access officer of the Department of Energy. In those orders, the information access officer denied two requests for information which the firm had filed under the Freedom of Information Act (the Act). In its requests for information, Shank had sought copies of internal agency guidelines and memoranda which related to the treatment of pipeline drip stations or gathering points as separate properties under DOE regulations, and the consideration of gas processing plants as separate properties under the DOE regulations. The information access officer identified several documents which were responsive to shank's requests but declined to release those documents on the ground that they were interagency memoranda which were exempt from disclosure under exemption 5 of the Act. In considering the Shank appeal, the DOE found that the documents contained the advice and recommendations of agency personnel with respect to the proper treatment of plant condensate under the price regulations. The DOE therefore determined that the documents were predecisional in nature and contained the type of information which exemption 5 was designed to protect from disclosure. Accordingly, the Shank appeal was denied.

Taunton Municipal Lighting Plant, Taunton, Mass. DFA-0185, freedom of information

The Taunton Municipal Lighting Plant (Taunton) appealed from a determination issued by the DOE information access officer which denied in part a request for information which the firm had filed under the Freedom of Information Act, 5 U.S.C. 552 (the Act). In response to Taunton's request, the information access officer released portions of two documents but withheld 14 other documents on the ground that they constituted confidential commercial information which was exempt from disclosure under 5 U.S.C. 552(b) (4). In considering Taunton's appeal, the DOE found that the documents had been properly withheld by the information access officer because they contained confidential commercial and financial information which if released could injure the competitive position of the firm which had submitted the information to the DOE. However, the DOE also determined that one of the documents contained reasonably segregable factual material which was not exempt from disclosure and therefore directed that such material be released. In addition, the DOE determined that information contained in portions of two of the documents was already in the public domain and was therefore no longer confidential. Accordingly, the DOE concluded that this information should also be released. taunton's argument that all 14 documents which the information access officer withheld were relevant to a pending enforcement proceeding in which Taunton was involed and that public interest considerations therefore required their release was rejected. The DOE determined that the information contained in these documents was apparently information of the type referred to in 18 U.S.C. 1905 and that disclosure of that material by the agency might be unlawful. Finally, the DOE rejected Taunton's contention that the information access office had failed to adequately describe the documents which were withheld or to adequately state the grounds for invoking the statutory exemption. Taunton's appeal was therefore granted in part and denied in part.

REQUESTS FOR EXCEPTION

Coastal States Gas Corp., Houston, Tex., DXE-0244 (Almeda), natural liquid products

The Coastal States Gas Corp. (Coastal) filed an application for exception from the provisions of 10 CFR 212.165 which, if granted, would permit Coastal to reflect in its selling prices for the natural gas liquid products fractioned at its Almeda plant a level of increased nonproduct costs which is materially in excess of the passthrough level set forth in section 212.165. In considering the application, the DOE observed that Coastal must assume that the prices of the mixed stream of natural gas liquids which it purchases for use as feedstock at the Almeda fractionation plant already include the maximum allowable nonproduct cost passthrough of $.00375 per gallon, for natural gas liquids. The DOE therefore concluded that under the provisions of section 212.165, Coastal is permitted to pass through a level of increased nonproduct costs incurred at the Almeda facility which equals the difference between $.005 (the maximum permissible nonproduct cost passthrough rate for natural gas liquid products) and $.00375, or $.00125 per gallon. On the basis of this determination and the criteria set forth in *Superior Oil Co.*, 2 FEA par. 83,271 (August 29, 1975), the DOE determined that the Coastal Almeda plant should be granted an extension of the previous exception relief from the provisions of section 212.165 for the period Janary 1, 1978 through June 30, 1978.

Gulf Oil Corp., Houston, Tex., DEE-0985, crude oil

The Gulf Oil Corp. (Gulf) filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Gulf to sell the crude oil produced from the Sidney A. Smith lease (the Smith lease) located in Liberty County, Tex., at upper tier ceiling prices. In considering the exception application, the DOE found that Gulf's operating costs had increased to a point where the firm no longer had an economic incentive to continue the production of crude oil from the Smith lease. The DOE also determined that if Gulf abandoned its operations at the Smith lease, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous decisions, the DOE concluded that Gulf should be permitted to sell at upper tier ceiling prices 28.05 percent of the crude oil produced from the Smith lease for the benefit of the working interest owners for a 6-month period.

Kalama Chemical, Inc., Kalama, Wash., DPI-0008, unfinished toluene

Kalama Chemical, Inc. filed an application for exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit it to import 296,495 barrels of unfinished toluene into PAD district V on a license fee-exempt basis during the current allocation period. In considering Kalama's exception request the DOE determined that the firm is unable to obtain adequate supplies of domestic toluene at competitive prices because of high land transportation costs and the unavailability of coastal tanker space. Consequently, it was found that the firm will have to import the full amount of toluene for which it has requested fee-exempt authority. The DOE also observed that Kalama is the only U.S. manufacturer of phenol which uses toluene rather than benzene or cumene as a petrochemical feedstock and whereas benzene and cumene may be imported on a fee-free basis, toluene may not. The DOE concluded that the requirement that Kalama pay import fees for the toluene which it requires places the firm at a competitive disadvantage and results in an unfair distribution of the regulatory burdens which are imposed on Kalama and similarly situated firms. Accordingly, the Kalama exception request was granted.

A. T. Skaer, Denver, Colo., DEE-0408, crude oil

A. T. Skaer filed an application for exception from the provisions of 10 CFR, part 212, Subpart D, which, if granted, would permit him to sell the crude oil produced from the Wiant lease located in Washington County, Colo., at upper tier ceiling prices. In considering the exception request, the DOE found that Skaer's operating costs had increased to the point where he no longer had an economic incentive to continue the production of crude oil from the Wiant lease. The DOE also determined that if Skaer abandoned his operations at the Wiant lease, a substantial quantity of domestic crude oil would not be recovered. On the basis of the criteria applied in previous decisions, the DOE determined that Skaer should be permitted to sell at upper tier ceiling prices 12.87 percent of the crude oil produced from the Wiant lease for the benefit of the working interest owners during the period April 3 through September 30, 1978.

Tosco Corp., Washington, D.C., DXE-0494, crude oil

The TOSCO Corp., filed an application for exception from the provisions of 10 CFR 211.67 (the entitlements program) which, if granted, would result in the extension of the exception relief which was initially granted in *TOSCO Corp.*, 5 FEA par. 83,146 (April 29, 1977). The DOE had previously issued a proposed decision and order in this proceeding in which it was tentatively determined that the TOSCO application should be denied. TOSCO contested the determination and filed a detailed statement of objections. In the final decision which it issued, the DOE initially observed that the conclusions reached in the proposed decision reflect a reluctance to approve further extensions of exception relief in the absence of a very compelling showing that such relief is essential to prevent a serious financial hardship. As a result, TOSCO would continue to be expected to pursue all reasonable avenues in order to alleviate on its own the financial difficulties which it is experiencing. Nevertheless, after considering the material which TOSCO presented in its statement of objections, as well as cost data presented to the DOE by TOSCO's principal independent competitors in PADD V, the DOE found that the crude oil cost disadvantage which TOSCO is currently experiencing is even larger than it was at the time exception relief was initially approved in April 1977. The DOE pointed out that a significant portion of this crude oil cost disadvantage results from the lack of a mechanism in the entitlements program which would adjust for the low value of heavy California crude oil, and that the absence of such a mechanism has been especially critical for TOSCO because it relies on such crude oil for a large proportion of its refinery feedstocks. The DOE also found that the cost disadvantage currently being experienced by TOSCO cannot be sufficiently offset by economies of scale and that under present conditions in the market for California crude oil, TOSCO would encounter substantial difficulties in renegotiating its long-term contracts for heavy California crude oil. In addition, the financial data submitted by TOSCO indicated that in the absence of continued exception relief from its entitlements purchase obligation, TOSCO would experience an even larger cash flow deficit and have even less working capital at the end of 1978 than the firm had projected at the time it was initially granted exception relief in April 1977. In view of these considerations, the DOE determined that TOSCO is continuing to experience financial difficulties of an emergency nature and will incur a serious financial hardship unless it is granted further exception relief from the entitlements program during 1978. Therefore, in accordance with the prior decisions issued to TOSCO, sufficient exception relief was granted to alleviate the cash flow shortage which the firm anticipates it will incur during its 1978 fiscal year. This relief was approved for a period of 6 months after which the need for further relief will be reviewed. In conclusion, however, the DOE pointed out that it anticipated that proposed amendments to the entitlements program which would provide additional benefits for heavy California crude oil would be promulgated in the very near future. The DOE stated that it would assess the effect of such amendments on TOSCO's situation and could, at any time during the period for which relief was granted, reopen the proceeding and review the propriety of the exception relief which had been approved.

Valentine & Sons Inc., Glenrock, Wyo. FEE-4454, crude oil

Valentine & Sons, Inc. (Valentine) filed an application for exception in which it requested that it be permitted to sell the crude oil which it will obtain from processing contaminated or waste crude oil at prices in excess of the lower tier ceiling price specified in 10 CFR 212.73. In considering the Valentine application, the DOE found since that the firm will not produce crude oil but will purchase crude oil which has been produced by other firms, its sales of crude oil will not be "first sales" under the provisions of 10 CFR 212.72. The DOE therefore determined that the particular price exception relief which Valentine requested was not appropriate since the firm did not fall within the regulatory definition of "producer." Rather, the DOE found that the price regulations applicable to resellers of crude oil should be regarded as governing Valentine's activities. Those regulations provide that a reseller such as Valentine may charge any price in a sale of crude oil provided that its average markup for each month on those sales does not exceed the average markup which is established for it by the DOE Economic Regulatory Administration (ERA). However, if a firm's average markup in any month exceeds the permissible average markup which is later established for it, the firm will be required to make refunds unless it shows that its prices did not exceed those charged by the nearest comparable reseller. Since Valentine's crude oil reclamation operation appeared to involve a new process which would be the only one of its type in the Rocky Mountain area, the DOE noted that the ERA might take a longer period than it would normally require to determine the permissible average markup which Valentine should apply. Moreover, the DOE noted that since there may be no comparable reseller of crude oil in the area, Valentine may encounter serious difficulties in determining whether its prices are reasonable. Finally, the DOE noted that Valentine's reclamation project will produce significant benefit for the environment since it will eliminate the necessity of burning or otherwise disposing of the waste crude oil. Under these circumstances, the DOE concluded that exception relief should be approved which permits Valentine to charge any price for the crude oil which it reclaims, without regard to the prices charged by other firms during the period prior to the date on which the ERA establishes a permissible average markup which is applicable to Valentine. The DOE further determined that if Valentine is to recover the cost and expenses of reclaiming the waste crude oil it will have to sell the crude oil at price levels which refiners would refuse to pay unless they receive cost equalization benefits under the entitlements program, 10 CFR 211.67. Thus, in order to ensure that Valentine's ability to sell the crude oil which it will reclaim would not be frustrated, exception relief was approved which would permit Valentine to certify the reclaimed crude oil which it sells as stripper well crude oil for purposes of the entitlements program.

Western Stores Division of Continental Oil Co. Minneapolis, Minn. DEO-0024, DEO-0025, motor gasoline

The Western Stores Division of the Continental Oil Co. (Western) filed a statement of objections to a proposed decision and order issued to it by DOE region VIII on March 24, 1978. In the proposed decision, DOE region VIII determined that the firm's request for an increase in motor gasoline allocations at two retail sites should be denied. In its statement of objections, the firm alleged that the regional office erred in finding that the firm did not satisfy the standards which must be met before an exception is granted under the provisions of section 211.13(e), viz., that the market area is experiencing a significant increase in demand for an allocated product which is presently not being met by local supply. In the absence of such a showing, Western attempted to argue that the increased allocations were necessary in order to assure sufficient supplies for the two retail outlets when they are converted to self service stations. In rejecting the firm's contentions, the DOE noted that similar arguments had been raised and rejected in previous determinations concerning the application of section 211.13(e). See *Dollar Rent-A-Car* 3 FEA par. 83,075 (October 20, 1975); *Midcoast Aviation Services, Inc.*, 2 FEA par. 83,249 (August 22, 1975). Since the firm failed to raise any new arguments which would cause the DOE to reverse the precedents established in those cases, the firm's exception request was denied.

Midland Cooperatives, Inc., Minneapolis, Minn., DMR-0010, crude oil

On November 21, 1977, the DOE issued a decision to Midland Cooperatives, Inc. (Midland) in which it considered a number of contentions raised by Midland with respect to the level of exception relief which the firm had received during its 1975 fiscal year from its entitlements purchase obligations. *Midland Cooperatives, Inc.*, 1 DOE par. 80,129 (November 21, 1977). Previously, the DOE had reconsidered the issue of whether under the provisions of special rule No. 6, the profits which a small refiner such as Midland attained during the months of October and November 1975 should be excluded from the analysis of the level of exception relief which it should properly receive for 1975. In a decision and order involving the Southland Oil Co., the DOE determined that the operating results for the months of October and November 1975 should have been excluded in determining the appropriate level of exception relief which should be accorded to small refiners in 1975. See *Southland Oil Company*, 1 DOE par. 82,503 (October 14, 1977). However, the type of adjustment which was implemented in the Southland case was not incorporated in the decision issued to Midland on November 21, 1977. Consequently, Midland requested that the November 21 decision be modified to increase the level of entitlement exception relief which was eligible to receive Midland for its 1975 fiscal year. In considering Midland's request, the DOE noted that the Midland case involved circumstances which were virtually identical to those presented in the Southland case and that, as a result, the level of entitlement exception relief granted to Midland for its 1975 fiscal year should be appropriately modified. On

the basis of the methodology employed in the *Southland* decision, the DOE determined that Midland should be permitted to sell $332,500 in additional entitlements during June 1978.

REQUESTS FOR STAY

Phillips Puerto Rico Core, Inc., Guayama, P.R., DES-0061, naphtha

Phillips Puerto Rico Core, Inc. filed an application for stay in which the firm requested that it be permitted to import naphtha into Puerto Rico on a fee-exempt basis pending a final decision and order on an application for exception which the firm filed on December 23, 1977. On May 31, 1978, the DOE issued a consolidated proposed decision and order to Phillips as well as to three other firms operating in Puerto Rico in which it determined, among other things, that the Phillips exception request should be granted in full. In view of the substantial likelihood that the Phillips exception request will eventually be granted, the DOE concluded that Phillips should be permitted to import naphtha on a fee-exempt basis pending the finalization of the May 31st proposed decision.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Indiana Gas Co., Inc., Washington, D.C., DEX-0088; Quest Oil Co., Denver, Colo. DEE-0993

The following submission was dismissed on the grounds that the request was premature:

Jim Cox Oil Co., Wewoka, Okla. DRS-0059

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Raymond Oil Co., Huron, S. Dak., DEE-0726

[FR Doc. 78-24492 Filed 8-30-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of June 19 Through June 23, 1978

Notice is hereby given that during the week of June 19 through June 23, 1978, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Copies of the full text of these decisions and orders are available in the public docket room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

AUGUST 25, 1978.

DEPARTMENT OF ENERGY, OFFICE OF HEARINGS AND APPEALS, WASHINGTON, D.C.

DECISION LIST

June 23, 1978, No. 38

APPEALS

Prater Co., Farmington, N. Mex., FRA-1413, refined petroleum products

Prater Co. appealed from a remedial order which FEA region VI issued to the firm on July 25, 1977. In the remedial order, the FEA found that during the period November 1, 1973 through August 31, 1975, Prater had sold motor gasoline and diesel fuel at prices which exceeded the maximum allowable price levels specified in 6 CFR 150.359 and 10 CFR 212.93. On the basis of this finding, the remedial order directed Prater to refund the overcharges. In considering the Prater appeal, the DOE rejected the firm's argument that it should be relieved of liability for the overcharges because an FEA auditor had told the firm that its method of pricing was in compliance with FEA regulations. The DOE held that in the absence of strong countervailing factors alleged oral advice could not ratify otherwise unlawful conduct. The DOE also rejected Prater's argument that certain increased transportation costs which it had incurred should have been considered as product cost increases. The DOE noted that the costs of transporting product from a firm's supplier directly to its customers are marketing or selling expenses and are therefore considered nonproduct costs. In addition, the DOE determined that the property rentals which Prater paid were nonproduct costs and that the firm therefore could only pass through rental increases in accordance with the regulations governing the passthrough of nonproduct costs. However, the DOE remanded the remedial order to DOE region VI for further consideration as to whether Prater operated certain gasoline service stations throughout the audit period. In addition, the DOE determined that in view of a recent decision of the temporary emergency court of appeals that voided certain price rules which had been applied to sales of unleaded gasoline, the portion of the remedial order which related to Prater's sales of unleaded gasoline should also be remanded to DOE region VI. The Prater appeal was denied in all other respects.

Wallace & Wallace Chemical & Oil Corp., Washington, D.C., Dee-1114, crude oil

Wallace & Wallace Chemical & Oil Corp. filed an appeal from the entitlements notice which the DOE published on January 26, 1978. According to its submission, J&W Refining, Inc. has agreed to buy entitlements from Wallace for the month of November 1977, pursuant to the January 1978 entitlement notice, but had subsequently refused to consummate the purchase. In its appeal, Wallace requested that the DOE issue it additional entitlements on the June 1978 entitlement notice equivalent in value to the entitlements which Wallace has been unable to sell in January. In considering the appeal, the DOE concluded that defaults by entitlement purchasers contravene the entitlements program's objective of an equitable distribution of the benefits of access to old domestic crude oil and such defaults impose an economic burden on entitlement sellers. Accordingly, the Wallace appeal was granted. Furthermore, on its own motion, the DOE granted similar relief to all other firms that have suffered from defaults by J&W and other entitlement purchasers. The relief was effectuated by the issuance of additional entitlements on the June 1978 entitlement notice equivalent in value to the dollar amount of the entitlements which each affected firm had been unable to sell in the past.

REQUESTS FOR EXCEPTION

City of Long Beach, Calif., Long Beach, Calif., DXE-1118, crude oil

The city of Long Beach, Calif. filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The exception request, if granted, would result in an extension of exception relief previously granted to Long Beach and would permit the city to continue to sell certain guantities of the crude oil produced from Fault block unit 2 of the Wilmington field, located in Long Beach, Calif., at upper tier prices. In considering the exception request, the DOE found that the operating costs per barrel at Fault block unit 2 continued to exceed the applicable lower tier ceiling price and that continued exception relief was therefore necessary to provide the city with an adequate economic incentive to maintain production operations. In accordance with the methodology established in previous decisions, the DOE permitted Long Beach to sell 57.73 percent of the crude oil produced from Fault block unit 2 at upper tier prices for a 6-month period.

Lunday-Thagard Oil Co., South Gate, Calif., DXE-0076, crude oil

The Lunday-Thagard Oil Co. filed an application for exception from its regulatory obligations under the old oil entitlements program (10 CFR 211.67). The exception request, if granted, would relieve the firm of any obligation to purchase entitlements for the period October 1977 through March 1978.

On December 20, 1977, the DOE issued a proposed decision and order in which it reached a preliminary determination that Lunday-Thagard had radically changed its business practices after receiving an exception under the criteria known as the Delta standard. The proposed decision also found that those changes resulted in Lunday-Thagard taking unwarranted advantage of the entitlement exception which it had previously obtained. According to the proposed decision, Lunday-Thagard's course of conduct adversely affected the public interest and significantly frustrated the attainment of the objectives of the entitlements program. In order to prevent a recurrence of that situation, the Delta standard was modified and a ceiling was placed on the exception relief to be granted in the current Lunday-Thagard proceeding. The ceiling was equivalent to the exception that would be granted if the firm's crude oil receipts and runs to stills had been the same as in 1975 (the 1975 limitation). On the basis of that holding, the DOE proposed to grant exception relief in the amount of $230,509 per month for the 6-month relief period. Lunday-Thagard Oil Co., proposed decision

and order, case No. DXE-0076 (December 20, 1977).

In its statement of objections to the proposed decision, Lunday-Thagard contended that the DOE could not alter the Delta standard without first complying with statutory rulemaking provisions. Lunday-Thagard also maintained that the DOE could not lawfully apply the 1975 limitation to a period of time which preceded the date of the proposed decision and order. In considering Lunday-Thagard's objections, the DOE held that it was perfectly proper for the agency to modify adjudicatory standards, especially when a finding was made that the prior standards led to abuses of a regulatory program. On the basis of that holding and its finding that Lunday-Thagard had abused the exception it has received in the past, the DOE applied the 1975 limitation in the present case.

With respect to the remaining arguments Lunday-Thagard raised in its statement of objections, the DOE concluded that the action discussed in the proposed decision and order was of a prospective nature. It involved additional exception relief for a period that had never been before been considered by the agency and did not alter or reduce any relief which had previously been granted to the firm. The DOE therefore concluded that the revised standard was not being applied in a retroactive manner.

Despite the agency's right to apply the revised standard in this case as a matter of law, the DOE concluded that equitable considerations should lead to some modification in the result reached in the proposed decision and order. According to the decision, the application of the 1975 limitation to Lunday-Thagard for the final 3 months of 1977 would cause the firm to experience a serious financial hardship which would threaten its continued economic viability. In view of that finding, the DOE concluded that additional exception relief should be granted. In balancing the various equities, the DOE granted Lunday-Thagard exception relief amounting to $7,209,402 for the period October 1977 through March 1978.

Oceanic Petroleum Exploration Co., Los Angeles, Calif., DEE-0524, crude oil

The Oceanic Petroleum Exploration Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, in which it requested that it be permitted to sell at exempt prices the crude oil which it produces from the Debbie 42 lease, located in Burrel field in Fresno County, Calif. In considering the exception request, the DOE observed that the cost and revenue data submitted by Oceanic indicated that the firm was able to operate the Debbie lease at a profit both currently and into the foreseeable future. As a result, the DOE concluded that Oceanic had not shown that exception relief was necessary to provide it with an economic incentive to maintain production operations at the Debbie lease. The Oceanic application for exception was therefore denied.

REQUEST FOR MODIFICATION OR RESCISSION

International Harvester Co., Chicago, Ill., DMR-0021, reporting requirements

International Harvester Co. filed an application for modification of an FEA notice which was published in the FEDERAL REGISTER on December 16, 1976. That notice identified International Harvester as a company which had consumed at least 1 trillion Btu's of energy during 1975 and was among the 50 most energy-consumptive firms in standard industrial classification (SIC) code 33. As a result to that notice, International Harvester was required to participate in a reporting program under the provisions of section 375 of the Energy Policy and Conservation Act. In considering International Harvester's request for modification, the DOE found that as a result of the sale of all its production facilities the firm would consume no energy in SIC code 33. Consequently, the DOE concluded that significantly changed circumstances had occurred and that International Harvester should be relieved of the obligation to report energy consumption data to the DOE. Accordingly, the application for modification was granted.

REQUESTS FOR STAY

American Petrofina, Inc., Washington, D.C., DES-0867, crude oil

American Petrofina, Inc. (Fina) filed an application for stay of its obligations under the entitlements program (10 CFR 211.67). The request, if granted, would relieve the firm of its entitlement purchase obligations, pending a determination on the merits of an application for exception which the firm filed. In considering the Fina request, the DOE observed that the firm's entitlement purchase obligations could be adjusted in later months if its exception request were subsequently approved and therefore the firm had failed to show that it would experience an irreparable injury in the absence of stay relief. The DOE also noted that Fina did not allege in its application for stay that it would be unable to obtain a sufficient amount of cash to meet its projected entitlement obligations. Finally, on the basis of the present record, the DOE determined that Fina had not demonstrated a reasonable likelihood that it would succeed on the merits of its pending application for exception. The application for stay was accordingly denied.

Northland Oil & Refining Co., Tulsa, Okla., DES-0070, crude oil

Northland Oil & Refining Co. requested that its obligations under the entitlements program (10 CFR 211.67) be stayed for the month of June 1978, pending a determination on the merits of an application for exception which the firm filed. In considering the Northland request, the DOE found that the financial material which the firm submitted made a prima facie showing that the firm did not possess sufficient financial resources to meet its entitlement purchase obligations for June 1978. The DOE therefore granted the application for stay, pending a determination on Northland's application for exception.

Texas City Refining, Inc., Texas City, Tex., DES-0071, crude oil

Texas City Refining, Inc. (TCR) filed an application for stay of the provisions of the entitlements program (10 CFR 211.67) which, if granted, would relieve the firm of its obligation to purchase entitlements during the months of June and July 1978, pending a final determination on an application for exception which the firm stated it intended to file. In considering the request, the DOE found that on May 30, 1978, a series of explosions and fires occurred at TCR's Texas City, Tex. refinery which rendered the entire facility inoperative. The DOE determined that even if stay relief were granted, TCR would incur a substantial negative cash flow during the period June 1, 1978 through July 31, 1978 as a result of the costs of rebuilding the Texas City refinery and supplying its customers. The DOE therefore concluded that TCR had made a prima facie showing that the firm lacked sufficient financial resources to satisfy its entitlement purchase obligations during June and July 1978. Accordingly, the application for stay was granted.

SUPPLEMENTAL ORDERS

Beacon Oil Co., Hanford, Calif., DEX-0078; Edgington Oil Co., Inc., Long Beach, Calif., DEX-0079; Kern County Refinery, Inc., Bakersfield, Calif., DEX-0080; Lunday-Thagard Oil Co., South Gate, Calif., DEX-0081; Mohawk Petroleum Corp., Los Angeles, Calif., DEX-0082; Navajo Refining Co., Artesia, N. Mex., DEX-0083; Southland Oil Co./VGS Corp., Memphis, Tenn., DEX-0085; Warrior Asphalt Co., of Alabama, Tuscaloosa, Ala., DEX-0086; Young Refining Corp., Douglasville, Ga., DEX-0087; crude oil

On June 22, 1978, the DOE issued a decision and order to the firms listed above staying their obligations to purchase entitlements to the same extent that exception relief was specified in proposed decisions and orders which were also issued to the firms on that date. In granting the stays, the DOE stated that as a result of new exceptions procedures, the proposed decisions and orders would not be finalized for at least 10 days following their issuance, and entitlements notices issued during that interim period would not take into consideration the relief proposed for each firm. Therefore, based upon the precedent established in similar cases, the DOE determined that the entitlement purchase obligations of the firms should be stayed to the extent specified in the proposed orders until the conclusion of the pending exception proceedings.

Leonard E. Belcher, Inc., Springfield, Mass., DRX-0089, No. 2 fuel oil

Leonard E. Belcher, Inc. requested that the DOE issue subpenas in connection with an appeal from a revised remedial order which the firm stated it intended to file. In its submission, Belcher requested that the DOE subpena oral and written testimony from certain personnel employed by five firms with which Belcher competes. According to the Belcher submission, the testimony is necessary to support the firm's contention that the refund obligations set forth in the revised remedial order should be offset by certain "voluntary refunds" allegedly made by the firm. In considering the Belcher request, the DOE concluded that the information which the firm intended to elicit through the subpenas was not relevant to its contention. Accordingly, the request was denied.

Romaco, Inc., Montgomery, Ala., DEX-0095, petroleum products

On April 20, 1978, the DOE issued a decision and order to Romaco, Inc., dismissing a petition for special redress which the firm had filed. In that petition, Romaco had requested the rescission of a special report order that the Federal Energy Administration Region IV had issued to it. Although the DOE's determination that the special

report order had been properly issued remained valid, the DOE found that the April 20 decision contained possibly misleading statements concerning the types of records which firms are required to maintain pursuant to 10 CFR 210.92(a). Accordingly, the DOE issued a supplemental order clarifying the language in the April 20 decision.

Tosco Corp., Washington, D.C., DEX-0100, crude oil

On June 14, 1978, the DOE issued a decision and order to Tosco Corp., which granted the firm exception relief from the provisions of the entitlements program (10 CFR 211.67). Subsequent to that date, the Office of Fuels Regulation of the Economic Regulatory Administration informed the Office of Hearings and Appeals that the issuance of the additional entitlements to Tosco in the month of June 1978 would affect the obligations of all other participants in the entitlements program by a substantial amount and would cause a significant disruption in the operations of the program. Therefore, the DOE modified the June 14 order by distributing the entitlement benefits which Tosco was to have received in June over the 3-month period from June through August 1978.

TEMPORARY STAY

The following application for temporary stay was denied on the grounds that the applicant had failed to make a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Berry Holding Co., Washington, D.C., DRT-0009

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

International Retail Corp., Baltimore, Md., FEE-4838

The following notice of objection was dismissed on the basis that the proceeding had been superseded by an objection to a revised remedial order issued in the same matter:

Norco Oil Co., Cheboygan, Mich., DRO-0041

[FR Doc. 78-24493 Filed 8-30-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of June 26 Through June 30, 1978

Notice is hereby given that during the week of June 26 through June 30, 1978, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

AUGUST 25, 1978.

DEPARTMENT OF ENERGY, OFFICE OF HEARINGS AND APPEALS, WASHINGTON, D.C.

DECISION LIST

June 30, 1978, No. 39

APPEALS

D. V. Foster, Denton, Tex., DFA-0188, freedom of information

D. V. Foster appealed from a partial denial by the DOE information access officer of a request for information which Foster had filed under the Freedom of Information Act (the FOIA). In his appeal, Foster requested that the DOE release the deleted portions of form FEO-17 which K&S Texaco filed with the FEA on November 15, 1976. In considering the appeal, the DOE noted that form FEO-17 is generally exempt from mandatory disclosure under exemption 4 of the FOIA, which applies to trade secrets and confidential or privileged commerical or financial information. The DOE determined that even through K&S is no longer in business and would apparently not suffer substantial competitive harm if the information were released, a successor in interest to K&S could be competitively harmed by public disclosure of the information. Accordingly, the Foster appeal was denied.

W. C. Siddens, d.b.a. Prudential Oil Co., Lawrenceville, Ill., DRA-0112, crude oil

W. C. Siddens, d.b.a. Prudential Oil Co., (Prudential) filed an appeal from a remedial order which the Acting Director of Enforcement of DOE Region V issued to the firm on January 5, 1978. In the remedial order, the Acting Director of Enforcement found that Prudential had improperly classified one of its properties as a stripper well lease and, as a result, had overcharged its purchaser in the amount of $21,146.83. The remedial order directed Prudential to refund to the purchaser the full amount of the overcharges plus interest. In considering the Prudential appeal, the DOE concluded that the only argument which Prudential advanced would be more appropriately considered in the context of an application for exception. Since Prudential had failed to allege that the January 5 remedial order was erroneous in fact or law or was arbitrary and capricious, the DOE summarily denied the appeal in accordance with the provisions of 10 CFR 205.106(b)(1)(ii).

REQUESTS FOR EXCEPTION

Irving Oil Corp., Bangor, Maine, DPI-0007, residual fuel oil

Irving Oil Corp. filed an application for exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit the firm to import 3.5 million barrels of residual fuel oil into district I on a fee-exempt basis. In considering the exception request, the DOE found that in the absence of exception relief Irving would be unable to secure adequate supplies of domestic residual fuel oil at a competitive price. The DOE also found that payment of the license fee on imports of residual fuel oil would place the firm at a significant disadvantage in the New England residual fuel oil market. In addition, the DOE determined that the data which Irving submitted indicated that the firm would incur a substantial operating loss during the current allocation period and could be forced to reduce or terminate its activities as an independent marketer of residual fuel oil. Based on these considerations and the projected needs of Irving's customers, the DOE permitted Irving to import an additional 2.6 million barrels of residual fuel oil on a fee-exempt basis during the current allocation period.

Laketon Asphalt Refining, Inc., Evansville, Ind., DXE-0424, crude oil

Lakeland Asphalt Refining, Inc. filed an application for exception from the provisions of 10 CFR 211.67 (the entitlements program). The exception request, if granted, would relieve Laketon of the entitlement purchase obligations which the firm projected it would incur during the period February 1 through July 31, 1978. In a proposed decision and order which it issued to Laketon on February 10, 1978, the DOE determined that in order to preserve the firm's historical profitability Laketon should be relieved of its obligations to purchase a specific dollar amount of entitlements each month through July 1978. Laketon filed a statement of objections to the proposed decision in which it requested that the DOE relieve the firm of all its entitlement purchase obligations rather than grant relief in terms of a fixed monthly dollar amount. In considering Laketon's statement of objections, the DOE determined that its policy of specifying a fixed dollar amount of relief each month is designed to simplify the calculation of data in the monthly entitlement notices and thereby to facilitate the publication of the notices in a timely manner. In addition, the DOE noted that granting exception relief on the basis of a fixed dollar amount precludes a refiner from receiving substantially increased exception benefits prior to notifying the DOE of changes in its financial and operating projections. The DOE also found that Laketon had not provided any data which would indicate that the DOE's method of implementing the proposed exception relief would result in a serious financial hardship to the firm. Therefore, the exception relief was granted in the form specified in the proposed decision and order.

Eason Oil Co., Oklahoma City, Okla., DEE-0522, crude oil

Eason Oil Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Eason and would permit the firm to continue to sell a portion of the crude oil produced from thy Weiner property located in the Flora Field, Madison County, Miss., at upper tier ceiling prices. *Eason Oil Co.*, 1 DOE par. 81,006 (October 27, 1977). In considering the exception application, the DOE found that Eason had continued to incur increased operating expenses on the Weiner property and that, in the absence of exception relief, the working interest owners would lack an

economic incentive to produce crude oil from the property. In view of this determination and on the basis of the operating data which Eason had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued permitting Eason to sell at upper tier ceiling prices a portion of the crude oil produced from the Weiner property for the benefit of the working interest owners.

Eastex Construction Pipe & Supply Co., Longview, Tex., DEE-0072, crude oil

Eastex Construction Pipe & Supply Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced from three wells located in the Bivens Field, Beaureguard Parish, La., at upper tier ceiling prices. In considering the request, the DOE determined that Eastex operated one of the wells at a profit and therefore exception relief was not necessary. However, the DOE determined that Eastex no longer had an economic incentive to continue production at the other two wells. The DOE also concluded that if those wells were abandoned, a considerable quantity of domestic crude oil would not be recovered. Accordingly, Eastex was granted exception relief which permitted the firm to sell at upper tier ceiling prices a portion of the crude oil produced and sold from the two wells for the benefit of the working interest owners.

REQUESTS FOR STAY

Bassett Oil & Equipment Co., Bassett, Va., DRS-0074, fuel oil

Bassett Oil & Equipment Co. filed an application for stay of the provisions of a remedial order which DOE Region III issued to the firm on January 18, 1978, pending judicial review of a decision and order which the DOE issued to Bassett on May 31, 1978. *Bassett Oil & Equipment Co., Inc.*, 1 DOE Par. —— (May 31, 1978). In considering the application, the DOE found that there was little likelihood that Bassett would prevail on the merits upon judicial review. The DOE also found that the need to protect the interest of Bassett at this stage of the enforcement proceeding by maintaining the funds contained in an escrow account was outweighed by other equitable considerations. The DOE also concluded that approval of stay relief would frustrate the compelling public interest in securing timely compliance with DOE regulations. Accordingly, the Bassett application for stay was denied.

Homestead Gas Co., Inc., Homestead, Fla., DRS-0082, DRT-0010, propane

Homestead Gas Co., Inc. filed an application for stay and an application for temporary stay of an enforcement proceeding against the firm, pending final determination on the merits of an exception application which the firm stated that it intended to file. In considering Homestead's requests, the DOE found that the firm had not demonstrated that it would be unduly burdened if it were required to participate in the enforcement and exception proceedings simultaneously. Moreover, the DOE found that the firm had failed to demonstrate a likelihood of success on the merits of its application for exception. The requests for stay were therefore denied.

Mid-Michigan Truck Service, Inc., Kalamazoo, Mich., DES-1147, motor gasoline

Mid-Michigan Truck Service, Inc. filed an application for stay of the provisions of 10 CFR 211.25. If the request were approved, Gulf Oil Corp. would be required to continue furnishing Mid-Michigan with its base period use of motor gasoline directly, rather than through a designated substitute supplier. In considering Mid-Michigan's request, the DOE concluded that in view of prior exception relief granted to Mid-Michigan and the financial data which the firm submitted, the firm would likely prevail on the merits of an application for exception which it filed. In addition, the DOE concluded that the financial burden to Mid-Michigan in the absence of a stay outweighed the burden that Gulf would experience if the stay were approved. Accordingly, Mid-Michigan's request for stay was granted.

Leo G. Wetherill, Jr., Stafford County, Kans., DRS-0072, crude oil

Leo G. Wetherill, Jr., filed an application for stay which, if granted, would relieve him of the obligation to pay interest on certain crude oil overcharges, pending judicial review of a decision and order which the DOE issued to Wetherill on April 25, 1978. *Leo G. Wetherill*, 1 DOE Par. —— (April 25, 1978). In considering Wetherill's request, the DOE found that the interest payments could be recovered if Wetherill prevailed in his judicial challenge and therefore he had failed to show that he would suffer an irreparable injury if the stay were denied. Accordingly, Wetherill's application for stay was denied.

REQUEST FOR MODIFICATION OR RESCISSION

Braden-Deem, Inc., Wichita, Kans., DMR-0017, crude oil

Braden-Deem, Inc. filed an application for modification of a consent order which it entered into with the Federal Energy Administration on October 15, 1976. Under the terms of the consent order, Braden-Deem is required to make refunds to a firm that purchased crude oil produced from two leases owned by Braden-Deem. In its application, Braden-Deem requested that the consent order be modified in view of a determination by a Federal district court that FEA ruling 1974-29 had not been promulgated in accordance with the notice and comment provisions of the Administrative Procedure Act and was therefore invalid. *Energy Reserves Group, Inc. v. Federal Energy Administration*, Civil No. 771-146 (D. Kans., January 25, 1978). In considering the request, the DOE observed that the district court had made no finding with respect to the validity of the underlying interpretation contained in ruling 1974-29. The DOE therefore concluded that the district court decision did not constitute a significant change in circumstances. The DOE also noted that in entering into the consent order Braden-Deem had agreed to the findings upon which the order was based, and that under such circumstances it was not entitled to relief from its contractual obligations. The Braden-Deem application for modification was therefore denied.

SUPPLEMENTAL ORDER

Getty Oil Co., Los Angeles, Calif., DEX-0070, DEX-0071, natural gas liquid products

On April 3, 1978, the DOE issued a proposed decision and order to the Getty Oil Co. concerning the firm's Dollarhide and Stevens-Calidon natural gas processing plants. Although Getty filed a notice of objection to the proposed decision on April 17, 1978, the DOE mistakenly issued the proposed decision in final form on April 21, 1978. *Getty Oil Company*, case Nos. DXE-0688 through DXE-0697, DXE-0803 and DXE-0804 (decided April 21, 1978) (unreported decision). Consequently, the DOE determined that Getty's objections to the proposed decision should be considered in the present proceeding. In its statement of objections, Getty contended that the DOE improperly characterized the firm's exception applications as requests for an extension of exception relief. Getty maintained that its applications should be considered as original exception applications in view of the fact that its most recent exception applications had been denied by the DOE. In considering the Getty objection, the DOE found that exception relief had been granted for the two plants in question for certain prior periods and that Getty's petitions were therefore not original exception applications. Consequently, the DOE concluded that the findings of the April 21, 1978 final decision and order were correct. The order was accordingly sustained.

INTERIM ORDER

APCO Oil Corp.; Oklahoma Refining Corp., Washington, D.C., DEN-0001, crude oil and refined products

Apco Oil Corp. and Oklahoma Refining Corp. (ORC) requested that the DOE finalize certain provisions of a decision and order which it issued to Apco, ORC and Total Petroleum, Inc. in proposed form on February 6, 1978. In that proposed decision, the DOE determined that the firms should be granted various types of administrative relief to facilitate the purchase by Total and ORC of two refineries owned by Apco in Arkansas City, Kans. and Cyril, Okla. In their present submission, Apco and ORC request that those portions of the proposed decision be finalized before the DOE considers the firms' statements of objections to the proposed determination that ORC not be permitted to earn entitlements under the small refiner bias at the Cyril refinery in excess of the entitlements which a firm with a refining capacity equal to Apco's would earn. In considering the request, the DOE noted that Apco is subject to an IRS deadline for completion of its liquidation and dissolution. The DOE also found that the approval of the request would not have any apparent adverse effect upon other parties or upon the public interest. On the basis of these considerations, the DOE concluded that the uncontested portions of the February 6 proposed order should be made final. Accordingly, the request submitted by Apco and ORC was granted.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Texas City Refining Co., Washington, D.C., DEE-1086.

The following submissions were dismissed on the grounds that alternative regulatory

procedures existed under which relief might be obtained:

Diane B. Cohn, Washington, D.C., DFA-0195; Exxon Co., U.S.A., Washington, D.C., DFA-0190, DFA-0191, DFA-0192

The following submission was dismissed on the grounds that it fails to satisfy the requirements of the DOE procedural regulations which govern the determination of stay requests:

Harpel Petroleum Corp., Casper, Wyo., DES-0068

[FR Doc. 78-24494 Filed 8-30-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

July 24 through July 28, 1978

Notice is hereby given that during the period July 24 through July 28, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the public docket room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 and 5 p.m., e.d.t., except Federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

AUGUST 25, 1978.

PROPOSED DECISIONS AND ORDERS

Continental Oil Co., Houston, Tex., FEX-0185; Exxon Co., U.S.A., Houston, Tex., FEX-0184, crude oil

The Office of Regulatory Programs of the Federal Energy Administration submitted a request that the agency reconsider the exception relief from 10 CFR 211.65 (the crude oil buy/sell program) that was previously granted to Continental Oil Co. and Exxon Co., U.S.A. The request, if granted, would rescind the exceptions that relieve those two firms of the obligation to offer crude oil for sale to refiner-buyers. On July 27, 1978, the DOE issued a proposed decision and order which determined that the exception relief previously granted to Conoco and Exxon be rescinded.

GTE-Sylvania Inc., Hillsboro, N.H., DEE-0530, propane

GTE-Sylvania Inc. filed an application for exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit GTE-Sylvania to increase its base period use of propane at one of its manufacturing plants. On July 26, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Karchmer Pipe & Supply Co., Centralia, Ill., DXE-1356, crude oil

Karchmer Pipe & Supply Co. filed an application for exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit Karchmer to sell the crude oil it produces from the Patoka Unit No. 1 at prices which exceed the prices permitted under 10 CFR 212.73. On July 28, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Keener Oil Co., Tulsa, Okla., FEE-4110, crude oil

Keener Oil Co. filed an application for exception from the provisions of 10 CFR 212.72. The exception request, if granted, would permit Keener to recover certain revenues which it failed to realize in the past as a result of miscalculating the amount of crude oil which could be sold at upper tier or exempt price levels from 17 crude oil producing properties. On July 28, 1978, DOE issued a proposed decision and order which determined that the exception request be denied.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued proposed decisions and orders granting the exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	County/State location	Amount of price increase (per gallon)
Allied Chemical Corp	DEE-1413	Burnell-North Pettus	Bee, Tex	$0.0258
	DEE-1414	North Terrebonne-Tebona	Terrebonne Parish, La	.0077
	DEE-1415	South Fullerton	Andrews, Tex	.0132
Coastal States Gas Corp	DXE-1431	Almeda	Harris, Tex	.00755
William V. Conover	DEE-1340	Lapeyrouse	Terrebonne Parish, La	.02058
Continental Oil Co	DEE-1166	Chittim	Maverick, Tex	.0151
E. C. Johnston Co	DXE-1418	R. M. Stephens	Claiborne Parish, La	.0917
Getty Oil Co	DEE-1275	E. Vealmoor	Howard, Tex	.0077
	DEE-1276	Red Fish Bay	San Patricia, Tex	.0093
Halliburton Co./Vessels Gas Processing Co	DXE-1403	Irondale	Adams, Colo	.0790
A. M. Jackson	DEE-1382	R. M. Stephens	Clairborne Parish, La	.1436
McCulloch Gas Processing Corp	DEE-0931	Belle Fourche	Butte, S. Dak	(*)
Mobil Oil Corp	DEE-1259	Dover Hennessey	Kingfisher, Okla	.06757
Pronto Gas Co	DEE-0964	Sweetwater	Nolan, Tex	.06652
Shell Oil Co	DEE-1104	Dover Hennessey	Kingfisher, Okla	.0126
	DEE-1105	Person	Karnes, Tex	.0225
	DEE-1106	Timbalier Bay	Terrebonne Parish, La	.0091
	DEE-1107	Ventura	Ventura, Calif	.0698
Standard Oil Co. (Indiana)	DEE-1144	Okeene	Blaine, Okla	.0075
	DEE-1145	TSMA	Vermillion Parish, La	.0083
Sun Co., Inc	DEE-1344	Cowden	Ector, Tex	.0195
	DEE-1345	Delhi	Richland Parish, La	.0081
	DEE-1346	Luby	Nueces, Tex	.0196
	DEE-1347	Quitman Bayou	Adams, Miss	.0878
	DEE-1348	Seiling	Dewey, Okla	.0071

Company	Case No.	Plant	County/State location	Amount of price increase (per gallon)
Sun Co., Inc	DEE-1349	Slaughter	Hockley, Tex	.0155
	DEE-1350	Terrebonne	Ascension Parish, La	.0145
	DEE-1359	BiWells	Dimmit, Tex	.0052
Texaco, Inc	DEE-1384	Camrick	Beaver, Okla	.0154
	DEE-1385	Encinitas	Brooks, Tex	.0134
	DEE-1386	Fuller	Scurry, Tex	.0083
	DEE-1387	Pegasus	Midland, Tex	.0216
	DEE-1388	Wilson Creek	Wilson Creek, Colo	.0074
Texas Pacific Oil Co	DEE-1146	Lacassane	Cameron Parish, La	.0242

[1] Denied.

[FR Doc. 78-24495 Filed 8-30-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

July 31 through August 4, 1978

Notice is hereby given that during the period July 31 through August 4, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of reciept by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the public docket room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 and 5 p.m., e.d.t., except Federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

AUGUST 25, 1978.

PROPOSED DECISIONS AND ORDERS

Bright & Co., Dallas, Tex., DXE-0237, crude oil

Bright & Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Bright to sell additional quantities of crude oil produced from the Petty No. 1 well at upper tier and market prices to supplement the exception relief granted in a previous decision. On August 3, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Caribbean Gulf Refining Co., Bayamon, P.R., DEE-1053, crude oil

The Caribbean Gulf Refining Co. filed an application for exception in which it requested permission to retain the benefits which it would otherwise obtain if the dollar amount of its entitlement sales obligation were not reduced according to the provisions of 10 CFR 211.67(i)(4). On August 3, 1978, the DOE issued a proposed decision and order which determined that the Gulf exception request should be granted on a prospective basis.

Marathon Oil Co., Findlay, Ohio, DEE-0996, crude oil

The Marathon Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced from two properties located in Kern County, Calif., at upper tier ceiling prices. On July 31, 1978, the DOE issued a proposed decision and order which determined that the exception request should be granted in part.

W. B. Osborn, Jr., San Antonio, Tex., DEE-0049, crude oil

W. B. Osborn, Jr. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Osborn to sell the crude oil which he produces from the Reed E&F lease at upper tier price levels. On August 3, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Texaco, Inc., Los Angeles, Calif., DEE-1004, crude oil

Texaco, Inc. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Texaco to sell the crude oil which it produces from the Shiells Intermediate Zone Unit located in Ventura County, Calif., at exempt price levels. On July 31, 1978, the DOE issued a proposed decision and order which determined that exception relief should be granted in part.

Earl E. Wall, Atlanta, Ga., FEE-4465, crude oil

Earl E. Wall filed an application for exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit Wall to sell the crude oil produced from the Lester Reed Unit at upper tier prices. On July 31, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued proposed decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	County/State location	Amount of price increase (per gallon)
Cities Service Co	DEE-1410	Natomas	Campbell, Wyo	$0.0077
	DEE-1411	Seiling	Dewey, Okla	.0103
	DEE-1412	Thunder Creek	Campbell, Wyo	.0267
Doric Petroleum, Inc	DXE-1445	Enid	Garfield, Okla	.0076

Company	Case No.	Plant	County/State location	Amount of price increase (per gallon)
Kerr-McGee Corp	DEE-1074	Boxcar Butte	McKenzie, N. Dak	.0072
Do	DEE-1447	Bayou Crook Chene	Martin Parish, La	.0154
Louisiano Land and Exploration Co	DEE-1317	Bastian Bay	Plaquemine Parish, La	.0258
	DEE-1318	Lapeyrouse	Terrebonne Parish, La	.0170
	DEE-1319	Pointe Au Chien	do	.0134
	DEE-1320	Timbalier Bay	do	.0129
	DEE-1321	Yscloskey	St. Bernard Parish, La	(1)
Sun Co., Inc	DEE-0955	Gohlke	Victoria, Tex	.0611
	DEE-0997	Columbus III	St. Clair, Mich	.0078
	DEE-0999	Goldsby Central	McClain, Okla	.0150
	DEE-1000	Grieve	Natrona, Wyo	.0207
	DEE-1002	Stephens	Claiborne Parish, La	.0918
The Superior Oil Co	DEE-1333	Portilla	San Patricio, Tex	.0120
	DEE-1336	TSMA	Vermilion Parish, La	.0085
	DEE-1337	South Thornwell	Jefferson Davis Parish, La	.0182

[1] Denied.

[FR Doc. 78-24496 Filed 8-30-78; 8:45 am]

[3128-01]

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of July 28 through August 4, 1978

Notice is hereby given that during the week of July 28, 1978 through August 4, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

AUGUST 25, 1978.

APPENDIX.—*List of cases received by the Office of Hearings and Appeals*

[Week of July 28 through August 4, 1978]

Date	Name and location of applicant	Case No.	Type of submission
July 28, 1978	Amati's Service Station, Monongahela, Pa.	DEE-1455	Exception to change supplier. If granted: Amati's Service Station would be assigned a new supplier of motor gasoline to replace its base period supplier, Belle Vernon Oil Co.
Do	Cooper & Brain, Inc., Washington, D.C.	DES-1405	Application for stay. If granted: Cooper & Brain, Inc. would receive a stay of DOE enforcement proceedings pending a final determination of the application for exception which the firm has filed (Case No. DEE-1405).
Do	Sentry Refining, Inc., New York, N.Y	DEE-1459	Entitlements exception request. If granted: Sentry Refining, Inc. would receive an exception to the provisions of 10 CFR 211.67 which would enable the firm to purchase California crude oil for processing at their Corpus Christi, Tex. refinery.
July 31, 1978	BTA Oil Producers, Midland, Tex	DEE-1456	Price exception (sec. 212.73). If granted: BTA Oil Producers would be permitted to sell the crude oil produced from Baum, 704 JV-D "Com" lease, well No. 1 Baum Upper Penn pool located in Lea County, N. Mex., at upper tier ceiling prices.
Do	C. M. Dining, Inc., Exeter, N. H	DRD-0053	Motion for discovery. If granted: C. M. Dining, Inc. would be permitted to inspect and photocopy all nonprivileged written material in the possession of DOE's region I office relating to a present audit of C. M. Dining, Inc., and an audit of C. M. Dining, Inc. which Dining believes occurred during April and May of 1974.
Do	Depco, Inc., Denver, Colo	DEE-1453 DEE-1454	Price exception (sec. 212.73). If granted: Depco, Inc. would be permitted to sell the crude oil produced from the Johnson No. 1 and Neshem No. 2 wells located in Ward Tree County, N. Dak. at upper tier ceiling prices.
Do	Ford Oil Co., Houston, Tex	DRH-0078	Motion for evidentiary hearing. If granted an evidentiary hearing would be convened in connection with a statement of objections submitted by Ford Oil Co. in response to a proposed remedial order issued to the firm (Case No. DRH-0078).
Do	Little America Refining Co., Washington, D.C.	DXE-1465	Exception to entitlements program. If granted: Little America Refining Co. would receive an exception to the provisions of 10 CFR 211.67 with respect to its entitlements purchase obligations.
Do	Mid-America Refining Co., Inc., Washington, D.C.	DEE-1421	Exception to entitlements program. If granted: Mid-America Refining Co., Inc. would receive an exception to the provisions of 10 CFR 211.67 which would relieve the firm of any obligation to purchase entitlements.
Do	Mobil Oil Corp., New York, N.Y	DEE-1460	Price exception (sec. 212.73). If granted: Mobil Oil Corp. would be permitted to sell the crude oil produced from 495-D lease north Russell Devonian field located in Gaines County, Tex. at upper tier ceiling prices.
Do	Transok Pipe Line Co., Tulsa, Okla	DEE-1458	Price exception (sec. 212.165). If granted: Transok Pipe Line Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Ames plant.
Aug. 1, 1978	Young Refining Corp., Douglasville, Ga	DEX-0099	Supplemental order. If granted: Young Refining Corp. would be obligated to purchase $206,121 in entitlements over the next 3 months to account for crude oil runs to stills during October 1977 through March 1978.

APPENDIX.—*List of cases received by the Office of Hearings and Appeals*—Continued

Date	Name and location of applicant	Case No.	Type of submission
Aug. 2, 1978	Allied Chemical Corp., Morristown, N.J.	DEE-1470	Price exception. If granted: Allied Chemical Corp. would be permitted to increase its prices for liquid hydrocarbon aerosol propellants to the current average market price.
Do	Amaran Corp., Lakeland, Fla	DEE-1469	Exception to entitlements program. If granted: Amaran Corp. would receive an exception from any requirement to purchase entitlements with respect to the volumes of crude oil which it purchases.
Do	Colonial Oil Co., Jacksonville, Fla	DEE-1461	Exception to change supplier. If granted: Colonial Oil Co. would be assigned a new, lower-priced supplier of motor gasoline to replace its present supplier, American Petrofina Co.
Do	Getty Oil Co., Oklahoma City, Okla	DXE-1464	Price exception (Sec. 212.73). If granted: Getty Oil Co. would be permitted to sell crude oil from the Ed Dillon No. 2 well located in Oklahoma County, Okla., at upper tier ceiling prices.
Do	Great Southern Oil & Gas Co., Inc., Lafayette, La.	DXE-1466	Extension of relief granted in Great Southern Oil & Gas Co. Inc., 1 DOE par. 81,115 (Apr. 18, 1978). If granted: Great Southern Oil & Gas Co., Inc. would be granted further exception relief to permit it to sell the crude oil produced from the Castille Ra Sua: Breaux No. 1 well located in St. Martin Parish, La., at upper tier ceiling prices.
Do	Joseph I. O'Neill, Jr., Midland, Tex	DXE-1463	Extension of relief granted in Joseph I. O'Neill, Jr., 1 DOE par. 81,111 (Apr. 14, 1978). If granted: Joseph I. O'Neill, Jr. would be permitted to sell the crude oil produced from the Feldman and Pardo leases located in Scurry County, Tex., at upper tier ceiling prices.
Do	Superior Oil Co., Houston, Tex	DXE-1467	Extension of relief granted in Superior Oil Co., Case No. DEE-0414 (decided May 3, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Thomas/Putnam Oswego plant.
Do	Texaco, Inc., Tulsa, Okla	DEE-1468	Price exception (sec. 212.73). If granted: Texaco, Inc. would be permitted to sell the crude oil from the Fruin A No. 1 well located in Payne County, Okla., at upper tier ceiling prices.
Do	Valley Servicecenter, Bunker Hill, W. Va	DEE-1471	Request to change supplier. If granted: Valley Servicecenter would be assigned a new supplier of motor gasoline to replace its base period supplier, Shenandoah Oil Co.
Do	Wheatco Refining Co., Inc., Wheatland, Wyo.	DEE-1462	Exception to reporting requirements. If granted: Wheatco Refining Co., Inc. would not be required to file form EIA-79.
Aug. 3, 1978	Asiatic Petroleum Corp., New York, N.Y.	DPI-0017	Exception from base fee requirements. If granted: Asiatic Petroleum Corp. would be permitted to import fuel oil on a fee-exempt basis from May 1, 1978 to Apr. 30, 1979.
Do	S&W Engine Supply Co., Oklahoma City, Okla.	DXE-1472	Extension of relief granted in S&W Engine Supply Co., 1 DOE par. 81,123 (May 5, 1978). If granted: S&W Engine Supply Co. would receive an extension of the relief granted on Nov. 7, 1977 (Case No. FEE-4357) and extended on May 5, 1978 (Case No. DXE-0909) to permit the firm to continue to sell crude oil produced from its Baker-Townsend lease at upper tier ceiling prices.
Do	Whitco, Inc., Dallas, Tex	DXE-1473	Extension of relief granted in Whitco, Inc., 1 DOE par. (July 14, 1978). If granted: Whitco, Inc. would receive an extension of the DOE's July 14, 1978 decision and order which would require the Sun Co. to continue supplying Whitco, Inc. directly without the use of an intermediate supplier.
Aug. 4, 1978	Mid-Penn Refining Co., Harmony, Pa	DEE-1474	Request to change supplier. If granted: Mid-Penn Refining Co. would be assigned a new supplier of gasoline to replace its base period supplier, Petroleum Marketing Corp.

Notices of objection received

Date	Name and location of applicant	Case No.
July 31, 1978	Chevron, U.S.A., Washington, D.C.	FEE-4652
Aug. 2, 1978	William V. Conover, Dallas, Tex	DEE-1340
Aug. 3, 1978	McCulloch Gas Processing Corp., Washington, D.C	DEE-0931

Proposed remedial orders

July 21, 1978	McMinnville Gas Co., McMinnville, Oreg	DRO-0088
July 28, 1978	Tenneco Oil Co., Washington, D.C	DRO-0089
Aug. 2, 1978	Ray Summers, Inc., Louisville, Ill	DRO-0090

[FR Doc. 78-24497 Filed 8-30-78; 8:45 am]

[3128-01]

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of August 4 through August 11, 1978

Notice is hereby given that during the week of August 4 through August 11, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

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

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

AUGUST 25, 1978.

APPENDIX—*List of cases received by the Office of Hearings and Appeals*

[Week of August 4 through August 11, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 4, 1978	Central Oil Co., Worchester, Mass	DRH-0067 and DRD-0067.	Motion for evidentiary hearing; motion for discovery. If granted: An evidentiary hearing would be convened in connection with a statement of objections submitted by Central Oil Co., in response to a proposed remedial order issued to the firm by DOE Region I on May 30, 1978 (Case No. DRO-0067). In addition, Central Oil Co., would be granted discovery with respect to the objections it has raised.
Do	Charter Oil Co., Jacksonville, Fla	DEE-1475	Request for exception. If granted: Charter Oil Co., would receive an exception from the reverse entitlements rule for residual fuel oil to facilitate the transportation of residual fuel oil from California to East Coast markets.
Do	Texas City Refining, Inc., Washington, D.C.	DES-0095	Request for stay. If granted: Texas City Refining, Inc. would be granted a stay of the entitlements purchase obligations which it will incur during the months of August through November 1978, pending a final determination on its application for exception.
Aug. 7, 1978	W. N. McMurry, Casper, Wyo	DXE-1477	Extension of relief granted in *W. N. McMurry*, 1 DOE Par. 81,024 (November 16, 1977). If granted: W. N. McMurry would be permitted to sell the crude oil produced from the West Sage Creek Lease located in Casper, Wyo., at upper tier ceiling prices.
Aug. 8, 1978	Mustang Fuel Corp., Oklahoma City, Okla.	DXE-1478	Extension of relief granted in *Mustang Fuel Corp.*, Case No. DXE-0526 (decided April 25, 1978) (unreported decision). If granted: Mustang Fuel Corp. would be permitted to increase its prices to reflect non-product cost increases incurred in producing natural gas liquids and natural gas liquid products at the Calumet plant.
Do	San Joaquin Refining Co., Newport Beach, Calif.	DEX-0101	Supplemental order. If granted: The DOE would review the entitlements exception relief granted to San Joaquin Refining Co., during its 1978 fiscal year in order to determine whether the level of relief accorded the firm was asppropriate.
Aug. 9, 1978	Beacon Gasoline Co., Washington, D.C.	DEX-1481	Extension of relief granted in *Beacon Oil Co.*, Case No. DEX-0556 (decided April 21, 1978) (unreported decision). If granted: Beacon Gasoline Co. would be permitted to increase its prices to reflect non-product cost increases incurred in producing natural gas liquids and natural gas liquid products.
Do	Central Cooperatives, Inc., Kansas City, Mo.	DRH-0069 and DRD-0069.	Motion for evidentiary hearing; motion for discovery. If granted: An evidentiary hearing would be convened in connection with a statement of objections submitted by Central Cooperatives, Inc. in response to a Proposed Remedial Order issued to the firm by DOE Region VII on June 5, 1978. In addition, Central Cooperatives, Inc. would be granted discovery with respect to the objections it has raised.
Do	Coastal States Gas Corp., Houston, Tex	DEE-1479	Exception to subsitute supplier. (Section 211.25). If granted: Coastal States Gas Corp. would be permitted to transfer certain of its base period supply obligations to Lo-Vaca Gathering Co.
Do	L & M Oil Co., Indianapolis, Ind	DEE-1480	Price exception. (Section 212.73). If granted: L & M Oil Co. would be permitted to sell the crude oil produced from the Allen 2A well, located in West Lewisville, Ark., at market prices.
Do	Viersen & Cochran, Tulsa, Okla	DFA-0202	Appeal of freedom of information request denial. If granted: The DOE's February 10, 1978, and July 10, 1978 information request denials would be rescinded and Viersen & Cochran would be granted access to DOE data concerning an audit of Viersen & Cochran and related requests for interpretation.
Aug. 11, 1978	Ashland Oil, Inc., Washington, D.C	DSG-0027	Request for special redress. If granted: Ashland Oil, Inc. would receive an extension of time in which to reply to a notice of probable violation issued to the firm by the office of special counsel for compliance.
Do	Mid-America Refining Co., Inc., Washington, D.C.	DES-0097	Request for modification of Mid-America Refining Co., Inc., 1 DOE Par. —— (August 7, 1978). If granted: Mid-American Refining Co., Inc. would be granted a stay of its obligation to purchase entitlements pending a final determination on an application for exception which the firm has filed.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Aug. 7, 1978	Exxon Co., U.S.A., Washington, D.C	FEX-0184
Do	Karchmer Pipe & Supply Co., Centralia, Ill	DXE-1356
Do	Texaco, Inc., Los Angeles, Calif	DEE-1004

Proposed remedial orders; notices of objection received

Aug. 4, 1978	Burek Oil Company, Inc., Washington, D.C	DRO-0091.
Aug. 7, 1978	Getty Oil Co., Los Angeles, Calif	DRO-0092
Aug. 9, 1978	Mitchell Energy Corp., Houston, Tex	DRO-0093

[FR Doc. 78-24498 Filed 8-30-78; 8:45 am]

[3128-01]

Office of the Special Counsel for Compliance

CONTINENTAL OIL CO. ET AL.

Notice of Consent Orders

AGENCY: Department of Energy.

ACTION: Notice of Consent Order.

SUMMARY: Pursuant to 10 CFR 205.199J, the Office of the Special Counsel for Compliance for the Department of Ehergy (DOE) hereby gives Notice of Consent Orders which were executed on August 11, 1978, between the Office of the Special Counsel for Compliance and Continental Oil Co. (Conoco), Foremost Petroleum Co. (Foremost), and M&A Petroleum Co. (M&A). The Orders settle various disputes concerning overcharges and penalties which arose from the sale of refined petroleum products by Conoco to Foremost and M&A between March and Novemeber 1973.

Because of the complex settlement negotiations in this case and the necessity to conclude this matter simultaneously with other proceedings associated with these orders, as well as the concern to avoid delay in the payment of refunds and penalties, the DOE determined it was in the public interest to make each order effective immediately upon execution by the DOE and the oil company involved.

THE CONSENT ORDERS

All three consent orders deal with transactions that took place between March 6, 1973, and November 30, 1973. During that period the price of refined petroleum products was regulated by the Cost of Living Council (CLC). The DOE has succeeded to the responsibility to investigate and take appropriate enforcement action concerning violations of CLC regulations. The CLC price rules formed the basis regulatory system from which the present DOE petroleum regulations have evolved.

These Consent Orders are the result of an FEA/DOE investigation which began in March 1977. At that time, the FEA was informed by representatives of Conoco that an internal investigation by Conoco had disclosed that employees may have participated in a scheme to sell certain refined products (gasoline and No. 2 heating oil) to Foremost and M&A at prices in excess of those permitted under CLC regulations. FEA officials then began an investigation which verified and expanded on the information supplied by Conoco. The investigation also produced information suggesting that Foremost and M&A had full knowledge of the scheme and agreed to participate.

DOE's investigation indicated that during this period Foremost and M&A purchased refined products from Conoco. The sales were invoiced at lawful prices while amounts in excess of these prices, which Foremost and M&A had agreed to pay, were recorded on a separate ledger. The investigation by the DOE further suggested that the amounts constituted a liability which Foremost and M&A satisified by, among other devices, direct payment of certain unrelated freight charges for which Conoco was liable and the adjustment, to Conoco's benefit, of location differentials on product exchanged between Conoco and Foremost or M&A.

The investigation uncovered evidence of apparent willful violations of the CLC regulations and other criminal statutes. This evidence was referred to the Department of Justice which continued the investigation under the direction of a grand jury in the Sounthern District of Texas.

As a result of the simultaneous negotiations of both civil and criminal resolutions of this matter, the Department of Justice and Department of Energy agreed with the companies involved to the following disposition: Conoco entered a plea of *nolo contendere* to one felony count of violating 18 U.S.C. 1001 (making false records) and one misdemeanor count of violating the CLC regulations, and paid $15,000 in criminal fines; M&A entered a plea of *nolo contendere* to one felony count of violating 18 U.S.C 1001, and paid $10,000 in criminal fines; Foremost entered a plea of *nolo contendere* to one misdemeanor count of violating the CLC regulations and paid $5,000 in criminal fines. Conoco, M&A and Foremost also agreed to Consent Orders providing for the refund of the overcharges and payment of civil penalties. The terms of these Consent Order are described below. Since the simultaneous resolution of the civil and criminal aspects of this matter was significant in achieving a negotiated disposition of the case, the Consent Orders were made effective immediately upon execution by the DOE and the oil company involved in each order. That execution came immediately after the receipt of the companies' pleas to the criminal charges. This departure from the more common practice of publishing notice of a proposed consent order for comment and possible revision was deemed to be in the public interest and carried out pursuant to 10 CFR 205.199J(b).

To resolve the regulatory enforcement and civil penalty issues in the Consent Order between DOE and Conoco, the parties agreed that, in addition to several procedural matters: (1) Conoco will refund to the United States $2,000,000 in satisfaction of all DOE remedial actions for overcharges in sales by Conoco of the specified products between March 6, 1973, and November 30, 1973; (2) the DOE accepts responsibility to establish and administer a program for claims from persons asserting a right to some portion of the refund; (3) Conoco agrees to assist in the evaluation of such claims; (4) Conoco will pay $985,000 in civil penalties for the matters described in the Order; (5) the Consent Order is effective immediately upon execution by Conoco and DOE.

In the Consent Orders between DOE and Foremost and between DOE and

M&A, the parties agreed that, in addition to several procedural matters: (1) Foremost will pay $45,000 and M&A $40,000 in civil penalties in settlement of all administrative remedial actions undertaken in connection with the transactions with Conoco; (2) Foremost and M&A waive any claim for moneys payed by them to Conoco in the referenced transactions; (3) the Consent Orders are effective immediately upon execution.

Copies of the Consent Orders may be received free of charges by written request to:

Carl A. Corrallo, Solicitor to the Special Counsel for Compliance, Department of Energy, Room 3407, New Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461.

or by calling 202-566-9833.

Issued in Washington, August 25, 1978.

CARL A. CORRALLO,
Solicitor to the Special Counsel for Compliance.

[FR Doc. 78-24438 Filed 4-30-78; 8:45 am]

[3128-01]

[DOE/EIS-0024]

STRATEGIC PETROLEUM RESERVE, CAPLINE GROUP SALT DOMES, ASSUMPTION, IBERIA, IBERVILLE, LAFOURCHE PARISHES, LA.

Availability of Final Environmental Impact Statement

Notice is hereby given that a final environmental impact statement, DOE/EIS-0024, Strategic Petroleum Reserve, Capline Group Salt Domes, Assumption, Iberia, Iberville, and La-Fourche Parishes, La. (July 1978) was issued and filed with the Environmental Protection Agency on August 24, 1978, pursuant to the Department of Energy's (DOE) implementation of the National Environmental Policy Act of 1969. The statement was prepared to support administrative action related to the DOE's proposed expansion of the strategic petroleum reserve (SPR) facilities served by the Capline crude oil pipeline to an ultimate capacity of 500 million barrels of crude oil. This expansion would occur at the Napoleonville salt dome in Assumption Parish, La., and/or at the alternative locations including the existing Weeks Island SPR facility in Iberia Parish, La., the existing Bayou Choctaw SPR facility in Iberville Parish, La., or Iberia Salt Dome in Iberia Parish, La. The draft of this final statement was issued by the Federal Energy Administration (FEA) as FEA-DES 77-9 in September 1977. The responsibilities and functions of the FEA were assumed by DOE as of October 1, 1977.

The statement assesses the potential environmental impact of the (1) construction and operation of storage facilities at the Napoleonville salt dome; (2) construction and operation of a 5-mile-long raw water pipeline to Bayou Lafourche; (3) construction and operation of a deep well injection field for brine disposal south of the dome; (4) construction and operation of a 19-mile crude oil distribution pipeline from St. James terminal to the Napoleonville storage facility; and (5) construction and operation of storage facilities at the four alternative sites including oil, water, and brine pipeline.

Copies of the final environmental impact statements are available for public inspection at the DOE public document room located at: Library, Room 1223, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

Copies of the final statement have been furnished to those who commented on the draft statement as well as to other agencies and individuals who have requested copies. Copies are also available for public insepction at Federal depository libraries. A limited number of single copies is available for distribution by contacting the Chief, Environmental Assessment and Planning Branch, Strategic Petroleum Reserve Office, 1726 M Street NW., Washington, D.C. 20461, or the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830, 615-483-8611, extension 34672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Washington, D.C., this 25th day of August 1978.

For the Department of Energy.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-24489 Filed 8-30-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 957-7]

INTERAGENCY TOXIC SUBSTANCES DATA COMMITTEE

Change of Meeting Date

The next meeting of the Interagency Toxic Substances Data Committee, originally scheduled for the first Tuesday in September, will be held on Tuesday, September 12, 1978, 9:30 a.m. at the:

New Executive Office Building, Room 2010, 17th and Pennsylvania Avenue, Washington, D.C. 20006.

This meeting will be open to the public.

The meeting information announced in the FEDERAL REGISTER of May 26, 1978 concerning this Committee is still in effect. These meetings will continue to take place on the first Tuesday of each month at the above time and location. The date of the following meeting will be October 5, 1978.

For further information, contact Ms. Barbara Ostrow, Executive Secretary, Interagency Toxic Substances Data Committee, at 202-755-4880 or address correspondence to:

Ms. Barbara Ostrow, Office of Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

BARBARA OSTROW,
Environmental Protection Agency.

AUGUST 24, 1978.

[FR Doc. 78-24442 Filed 8-30-78; 8:45 am]

[6560-01]

[FRL 957-6]

AIR QUALITY TECHNICAL DEMONSTRATION PROGRAM

ACTION: Notice of Competition for Grants.

SUMMARY: The following letter solicits indications of interest to participate in the Air Quality Technical Demonstration Program. It was sent on August 18 to mayors of cities with over 100,000 population.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Jerry Kurtzweg, Chief, Land Use Policy Branch, Office of Transportation and Land Use Policy, Environmental Protection Agency, 401 M Street SW.; ANR 455, Washington, D.C. 20460, 202-755-0570.

Dated: August 25, 1978.

ROY N. GAMSE,
Acting Assistant Administrator for Planning and Management.

U.S. ENVIRONMENTAL PROTECTION AGENCY

AUGUST 18, 1978.

In his urban policy statement on March 27, 1978, President Carter promised to provide technical assistance to cities facing unhealthy air quality problems and a continuing need for economic development. The first step in fulfilling this promise will be the Air Quality Technical Assistance Demonstration Program, which is described in the enclosure. This program is a cooperative project among our four agencies and is a strong example of the President's "New Partnership" among State and local governments, the Federal Government, and the private sector. We believe that the strengths which each of our agencies brings to this

demonstration project will result in a successful program to assist all cities to develop the capacity to maintain their economies at a healthy level in a manner consistent with air quality goals.

We would like to invite you, as the chief elected official of one of our large cities, to compete for one of these demonstration grants. The competition will be held in two phases. In the first phase we are asking each city which is interested to submit a brief letter of intent by September 15, 1978. Based on those letters of intent, we will jointly select approximately 20 cities which, as the second phase, will be asked on October 1 to develop full proposals by November 15. We will make grant awards to four of eight cities on December 1, 1978, using the criteria listed in the enclosure.

If you are interested in competing for one of the grants, your brief (five page maximum) letter of intent should demonstrate your capability to carry out the project and outline your proposed approach. You should include a statement of your legal capacity to undertake the required measures described in your proposal. You should also describe how you plan to staff the project and the resource commitments which you and/or your designee plan to make. In addition, your proposal should identify the mechanisms, where appropriate, for coordinating with other State and local organizations which have significant responsibilities for economic and community development, air quality, and transportation.

In particular, we are seeking innovative and replicable ways of implementing plans to attain the national air quality standards while maintaining the cities abilities to attract and retain business and industry. We expect that your proposals will be closely coordinated with local, regional, and State agencies responsible for developing revisions of your State Implementation Plan. In addition, you may wish to designate an organization other than your city as the grantee. A list of eligible designees is included in the enclosure.

While the intent of this program is to focus our efforts on development in the core cities, some potential projects, while greatly assisting development in the core city, lend themselves more appropriately to implementation on an area-wide basis. We fully encourage such projects. Proposals for projects of an area-wide nature should demonstrate coordination with appropriate State and area-wide agencies and other local governments.

Letters of intent should be sent no later than September 15 to:

Douglas M. Costle, Administrator, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Attention: Technical Assistance Demonstration.

In order to provide all major cities with an opportunity to compete for these grants and to generate the broadest range of innovative ideas, we encourage you to submit a letter of intent in the first phase. We look forward to reviewing your creative ideas and working with you to develop innovative concepts and mechanisms which will assist your city and others to better achieve our joint goals of a healthy environment and strong economic development.

JUANITA M. KREPS,
Secretary,
Department of Commerce.
BROCK ADAMS,
Secretary,
Department of Transportation.
PATRICIA ROBERTS HARRIS,
Secretary, Department of
Housing and Urban Development.
DOUGLAS M. COSTLE
Administrator,
Environmental Protection Agency.

AIR QUALITY TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM

AUGUST 18, 1978.

A. PURPOSE

To provide cities with a greater capacity to attract and retain business and industry while making the adjustments necessary to attain the national health and welfare-based ambient air quality standards.

B. MEANS

A $4 million demonstration program of substantial technical assistance grants to four to eight large cities (over 100,000 population) to test innovative and replicable ways to implement their attainment plans while maintaining their ability to attract and retain business and industry. It is anticipated that, to the extent possible given statutory, regulatory, and administrative limitations such activities will be eligible for funding in the future for communities under *existing* economic and community development grant programs. Therefore, proposals should reflect projects which can ultimately be funded in most urban communities under existing economic and community development grant legislation and regulations.

C. ORGANIZATION

The program will be administered jointly by EDA and HUD to avoid the creation of new redtape and bureaucracy. Direction of the program, including final decisions on grant recipients and eligible activities, will be by a Board of Directors composed of the HUD Assistant Secretary for Planning and Community Development, the Commerce Assistant Secretary for Economic Development, the Deputy Administrator of the Environmental Protection Agency and the DOT Assistant Secretary for Budget and Programs.

D. ELIGIBLE GRANTEES

Applications must be submitted by the general purpose unit of local government. Each application must be consistent with the State implementation plan and must include provisions insuring close cooperation with the appropriate agencies having primary responsibility for development, implementation, and enforcement of the plan revisions required by the 1977 CAA amendments. In addition, proposals must, where appropriate, provide for coordination with other State and local organizations with significant responsibilities for economic and community development, air quality, and transportation. The general purpose unit of local government may designate recipients other than itself where permitted by statute. Eligible designees may include, but are not limited to, the following:

Economic development agencies;

Air pollution control agencies;

Metropolitan planning organizations or other designated lead agencies under section 174 of the Clean Air Act; and

Nonpublic organizations with the capacity to assist in implementing solutions to the difficulties of economic development and attainment of air quality standards.

E. SELECTION CRITERIA

The selection criteria will be weighted by the Board of Directors. The criteria are expected to be flexible enough to accommodate a variety of different situations. We anticipate that grants will be made in such a manner as to insure geographical variety. A city's eligibility will be determined on the basis of the following three criteria:

Economic or social distress;

Severity of air pollution problems; and

Commitment to economic development and to attainment of air quality standards.

Additional criteria against which proposals will be judged and which should be reflected in the application include:

Innovative ideas;

Replicability of program elements in other cities/situations;

Provision for a continuing self-supported system after the "demonstration" funding is complete;

Ability and capacity to evaluate results of proposed programs;

Ability and commitment to legally implement necessary measures;

Potential linkage to existing Federal economic and community development programs; and

Geographical variety and dispersion.

F. TIMING

On August 15, all cities with a population over 100,000 will be asked to submit a letter of intent by September 15 if they are interested in participating in the Air Quality Technical Assistance Demonstration Program. The letter of intent (maximum of five pages) should briefly outline the approach(es) the city intends to take.

The original letters will be received by EPA, which will immediately distribute copies to the administering agencies (HUD and EDA) and DOT. The administering agencies will be responsible for insuring that adequate analysis of each proposal is accomplished in a timely fashion.

The Board of Directors will review the letters of intent and, by October 1, select approximately twenty cities which will be asked to submit detailed proposals by November 15. Evaluation of the proposals is expected to require approximately two weeks. Award of the Technical Assistance grants to 4-8 cities will be targeted for December 1, 1978. The period of performance shall not exceed 2 years. As of January 1, 1980, it is anticipated that air quality technical assistance activities will become grant-eligible (insofar as feasible, given statutory, regulatory, and administrative limitations of the funding agency or department) for all cities under existing economic and community development grant programs.

G. Evaluation

Evaluation of the results of these demonstration projects will be a dual effort by both the individual municipalities and the four Federal sponsors. Each city receiving a grant will be required to provide an evaluation of the success of its project(s). A separate evaluation of the projects will be jointly sponsored by HUD, EDA, DOT and EPA. The evaluation criteria will be developed by the Board of Directors.

H. Scope of Eligible Activities

Cities are encouraged to develop innovative and creative approaches consistant with statutory funding authorities. The following types of projects provide examples of activities which will be eligible under the air quality technical assistance demonstration program:

1. DEVELOPMENT OF A RANK-ORDERED LIST OF INDUSTRIES IN TERMS OF THEIR RELATIVE ATTRACTIVENESS FROM AN AIR QUALITY AND ECONOMIC DEVELOPMENT PERSPECTIVE

Several alternative criteria could be used to develop the list:

- Employment relative to air pollution emissions,
- Payroll relative to air pollution emissions,
- Tax base contribution relative to air pollution emissions.

This information should prove very valuable to economic development offices in developing their strategy for attracting industry.

2. DEVELOPMENT OF A LOCAL EMISSION OFFSET CLEARINGHOUSE

A clearinghouse could simplify the process of locating and negotiating an emission offset. The clearinghouse could serve as an information broker, providing information regarding location and probable cost of sources of emission offsets.

3. LOCAL MECHANISMS FOR FINANCING POLLUTION ABATEMENT EQUIPMENT

In some urban areas the cost of compliance with air pollution control requirements is a threat to existing marginal firms and poses a potential loss of employment opportunities. The problems are often related to difficulties encountered in raising the necessary capital. Some areas have begun to adopt innovative ways to provide financing to such firms; e.g., the South Coast Air Quality Control District in California. The demonstration grant might be applied to design, implement, and evaluate such innovative financing programs.

4. ESTABLISHMENT OF INSTITUTIONAL CAPACITY

- *Emission Offset Market*—State and local agencies do not now have the necessary institutional support structures to facilitate case-by-case offset transactions. Demonstration grants could be used to aid in setting up programs to assist industry in defining potential offsets and in identifying sellers and buyers within the area.
- *Banking*—State and local agencies will be permitted to establish local rules for "banking" emission reductions for future use as offsets. This will enhance long range planning abilities of industry. Demonstration grants can provide funds to design and establish such banking schemes.
- *Management of Air Quality Growth Increment*—Although a quantifiable margin for growth may be created within the State implementation planning process through the imposition of more stringent regulations on existing pollution sources, adequate institutional mechanisms must be established to track and allocate the available growth increment. This includes:

Development of allocation priorities or rules for allocation of growth margin.

Development of an adequate tracking system to account for reductions in and additions to the emission inventory.

- *Tradeoff Between Stationary Source Controls and Transportation Controls*—State and local agencies need the capability to jointly analyze, negotiate and balance the distribution of emission reductions assigned to stationary source controls and transportation controls. Frequently, transportation controls are expected to absorb all remaining control needs after stationary controls are determined.

5. REDESIGN LOCAL POLICIES AND PROGRAMS TO PROMOTE SOUND INDUSTRY SITING

- *Zoning and Capital Improvements*—Due to the lack of attention to air quality in past planning activities there may be unnecessary siting constraints for industry. Redirection of industrial zoning and capital improvements projects may be necessary to avoid constraints where, for example, lands zoned for industrial use are unfavorable from an air quality perspective.

Emission density zoning has been proposed as one additional means of distributing emission sources in a way consistent with meeting air quality standards.

- *Use of Case-By-Case Cost-Benefit Analysis*—The Clean Air Act Amendments of 1977 require that proposals by major sources requesting permission to construct must be accompanied by an alternative site and cost/benefit analysis in difficult ozone nonattainment situations. Most State and local areas do not have the policy framework to effectively utilize this type of information in their decisionmaking. Demonstration grants could go toward establishing such policies and decisionmaking mechanisms.

6. EMISSION FEES

As a supplement to direct regulation, emission fees can provide an incentive to make greater use of industrial capabilities for further emission reductions, which, in turn, could provide "room" for additional economic development.

7. IMPLEMENTATION OF A TRANSPORTATION CONTROL PLAN

Such a project would provide for the design and implementation of innovative measures to better relate economic development planning with programs to reduce the region wide trips and vehicle miles traveled. To be considered eligible for funding, it would have to go beyond the transportation control measures normally required in State Implementation Plans.

8. TAX BASE SHARING

Tax base sharing, especially when combined with emission density zoning, provides an opportunity for minimizing excessive concentrations of industrial emissions while considering economic hardship to the municipal tax base.

9. ESTABLISHMENT OF AN "ENVIRONMENTAL SERVICES ELEMENT" IN THE MUNICIPAL ECONOMIC DEVELOPMENT OFFICE

This would provide for developing an institutional interest in air quality within the economic development community of the city. This capacity could serve to focus the development interests on positive steps to improve air quality rather than the usual adversary position. Given such an institutional interest in air quality, development interests may be persuaded more easily to support such often controversial issues as long-term planning, transportation control measures, the encouragement of environmentally sound industrial development and compact development rather than sprawl.

I. Compliance With Grant Program Requirements

If a city's proposal is selected for funding, the city will be advised as to the program of the department or agency pursuant to which the proposal will be funded. Funding will be subject to the city's compliance with statutory, regulatory, and administrative requirements of the particular program under which the proposal will be funded.

[FR Doc. 78-24448 Filed 8-30-78; 8:45 am]

[6560-01]

[OPP-180223; FRL 957-3]

IDAHO STATE DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Ethyl Parathion To Control Pea Aphid, Bean Aphid, and Vetch Aphid on Lentils

The Environmental Protection Agency EPA) has granted a specific exemption to the Idaho State Department of Agriculture (hereafter referred to as the "Applicant") to use ethyl parathion to suppress populations of the pea aphid, the bean aphid, and the vetch aphid which are threatening the commercial lentil crop on 33,000 acres in 10 northern Idaho counties. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies

for use of pesticides under emergency conditions.

This notice contains a summary of information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant approximately 33,000 acres of lentils in the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone in northern Idaho could suffer up to 30-percent yield loss due to infestations of pea aphid, bean aphid, and vetch aphid.

According to the Applicant, malathion, the only EPA-registered pesticide for use on lentils, has provided only marginal or ineffective control of aphid pests, whereas, parathion, which was applied to lentils under a specific exemption in 1976 and 1977, proved satisfactory.

The Applicant proposes to use parathion at an application rate of one-half pound active ingredient per acre by air and ground. Two applications will be made to lentil fields beginning immediately and terminating by August 15, 1978. Application of parathion will be restricted to State-licensed commercial applicators.

The currently available data for parathion, emulsifiable concentrate formulations, show no detectable residues (less than 0.2 ppm, depending on the crop substrate) in any crop which has the edible portion of the plant protected from direct application of the pesticide (such as peas, corn, and soybeans). Based on these data, the EPA concludes that residue levels resulting from the proposed use are not likely to exceed 0.2 ppm, if emulsifiable concentrate formulations are used and a 14-day preharvest interval is observed. The EPA has determined that lentils bearing residues of parathion which do not exceed 0.2 ppm will not pose a hazard to the public health.

The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has advised EPA that three endangered species—American Peregrine Falcon, Grizzly Bear, and Northern Rocky Mountain Wolf—are resident to one or more of the Idaho counties where parathion will be applied. Since none of these animals are known to feed on lentils or lentil forage, the proposed use poses no probable threat to these endangered species or their habitat.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of pea aphid, bean aphid, and vetch aphid has occurred; (b) there is no pesticide presently registered and available for use to control these aphids in Idaho; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these aphids are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 15, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product, ethyl parthion, EPA Reg. No. 802-166, manufactured by Charles H. Lilly Co. (Miller RD Division), is authorized;

2. Ethyl parathion will be applied at a rate of one-half pound active ingredient per acre. A maximum of two applications may be made;

3. A maximum of 33,000 acres may be treated;

4. A maximum of 33,000 pounds active ingredient may be applied;

5. All applications will be made by ground or air;

6. All applications will be made by State-licensed commercial applicators;

7. No application will be made within 14 days of any harvest;

8. A residue level of 0.2 ppm in or on lentils has been judged adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. Lentil crop residues which have been treated with parathion may not be used for food, feed, or fodder. Livestock may not graze in treated lentil fields;

10. A 100-foot buffer zone will be maintained around bodies of water which are inhabited by fish and/or waterfowl;

11. Every precaution shall be taken to avoid or minimize spray drift to nontarget areas;

12. Liaison will be established between the Applicant and the Idaho Department of Fisheries and Game to minimize any adverse effects on fish and wildlife resources;

13. All applicable directions, restrictions, and precautions on the product label must be followed;

14. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

15. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by February 15, 1979.

AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (85 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: August 24, 1978.

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

[FR Doc. 78-24446 Filed 8-30-78; 8:45 am]

[6560-01]

[OPP-180224; FRL 957-4]

WYOMING DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Strychnine To Control Rabid Skunks in Campbell County

The Environmental Protection Agency (EPA) has granted a specific exemption to the Wyoming Department of Agriculture (hereafter referred to as the "Applicant") to use strychnine-treated baits for the control of rabid skunks in Campbell County in Wyoming. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room E-315, Washington, D.C. 20460.

The section 18 regulations provide that the Administrator may grant an emergency exemption to a Federal or State agency when the following conditions exist:

(a) A pest outbreak has occurred or is about to occur and no pesticide registered for the particular use, or alternative method of control is available to eradicate or control the pest, (b) significant economic or health problems will occur without the use of the pesticide, and (c) the time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use. 40 CFR 166.1.

The exemption is also subject to the provisions of 40 CFR Part 164, specifically, subpart D, published in the FEDERAL REGISTER on March 18, 1975 (40 FR 12261). In cases such as the one presented by this Applicant, if the request is for the use of a pesticide which has been finally canceled or suspended, then the application constitutes a petition for reconsideration of such cancellation or suspension order. On March 9, 1972, Administrator Ruckelshaus canceled and suspended the registration of strychnine, sodium cyanide, and 1080 (sodium fluoracetate) for predator control. However, the Administrator's order banned the

use of these pesticides for predator control without distinguishing between rabid and nonrabid predators, the former a human health problem and the latter an economic problem. Therefore, the exemption cannot be granted without the requirement of a prior public hearing, unless certain conditions are found to exist.

Subpart D of the section 3 regulations provides that in emergency circumstances the Administrator may rule on the application without convening a formal hearing and without making a finding as to the question of substantial new evidence when he determines:

(1) That the application presents a situation involving need to use the pesticide to prevent an unacceptable risk: (i) to human health, or (ii) to fish or wildlife populations when such use would not pose a human health hazard; and

(2) That there is no other feasible solution to such risk; and

(3) That the time available to avert the risk to human health or fish and wildlife is insufficient to permit convening a hearing as required by § 164.131; and

(4) That the public interest requires the granting of the requested use as soon as possible. 40 CFR 164.133.

It should be noted that a rebuttable presumption exists against registration of rodenticide products containing strychnine which are registered for outdoor, above-ground use (see FEDERAL REGISTER of December 1, 1976, p.52810); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

According to the Applicant, two skunks had been found in Campbell County and were confirmed as being rabid by laboratory analysis on December 14, 1977. On July 7, 1978, two additional skunks were observed in the same area and appeared to be acting in a rabid manner. This area is entirely rangeland, although a large trailer park is located 0.5 miles from this area.

The Applicant proposes to use a maximum of 500 baits per three-mile radius of a confirmed rabid skunk location, with lard paraffin baits or treated eggs used as dictated by weather conditions. Eggs will be stamped with the word "Poison" and warning signs will be prominently posted at each bait placement location. No baits will be placed within one-half mile of the trailer park. An extensive publicity program, including newspaper and radio, will be used to notify the public of the program and to prevent children and pets from entering the treatment area. Upon completion of the program, all unconsumed strychnine-treated baits and all fragments of partially eaten baits will either be picked up and placed, individually broken, in a trench mixed with raw soil and covered with not less than 18 inches of soil or will be incinerated in an approved hospital incinerator.

Records of the control program will include the number and location of eggs/baits placed, the number and location of eggs/baits consumed, number of eggs/baits disposed of, and location of the disposal site. Monitoring data, which will be incorporated in a final report to EPA, will include: (a) number and location of livestock found rabid, (b) number and location of dead skunks found rabid, (c) total number of skunks killed, and (d) number and location of nontarget species killed by strychnine during the program. The Applicant will coordinate the programn working with the University of Wyoming Extension Service, the Wyoming Heath Department and the Wyoming Game and Fish Commission. The field supervisor will be the Campbell County sanitarian, a State-certified commercial applicator. The Center for Disease Control, U.S. Department of Health, Education, and Welfare, has no objection to this use of strychnine in Wyoming and recommends a control program. The Office of Endangered Species, U.S. Department of the Interior, has advised EPA that there are no endangered species in Campbell County at this time of year. EPA has concluded that this program will reduce the possibility of human contact with rabid animals and anticipates no adverse effects on man and the environment from it.

In light of the above and pursuant to the controlling regulations, the Administrator, EPA, has determined that (a) a pest outbreak of rabid skunks has occurred or is likely to occur; (b) there is no pesticide presently registered for use in suppressing populations of rabid skunks in Wyoming; (c) the application presents a situation involving a need to use the pesticide as requested to prevent an unacceptable risk to human health; (d) there is no other feasible solution to such human health risk; (e) the time available to avert the risk to human health is not sufficient to convene a hearing; and (f) the public interest requires the granting of the requested use as soon as possible. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 7, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. No more than 500 baits will be placed per three-mile radius of a confirmed rabid skunk location;

2. Lard paraffin baits or treated eggs will be used as dictated by weather conditions;

3. Eggs will be stamped with the word "Poison," in red ink;

4. Signs will be prominently posted at each bait placement location;

5. No baits will be placed within one-half mile of the trailer park located in Campbell County;

6. An extensive publicity program including newspaper and radio will be used to notify the public of the program and to prevent children and pets from entering the treatment area;

7. The egg and lard baits will be prepared in accordance with the formula and procedures submitted in the application. The egg baits must not contain more than 0.5 grains strychnine;

8. Solution containers will be appropriately labeled as follows:

a. Percent of active and inert ingredients;

b. Skull and crossbones;

c. Directions for use;

d. Safety considerations;

e. Method of treating eggs; and

f. Restricted use statement.

9. No more than 5 ounces of strychnine alkaloid are to be applied without prior notification to the Special Registrations Branch of EPA. A confirming letter and map pinpointing the area to be treated shall be sent. Should treatment near rural and urban areas become necessary, the following restrictions must apply: In rural areas, baits will be located at least 500 yards from areas of human habitation, and warning signs shall be posted at all access roads to treated properties. In urban areas near human dwellings, every resident within the treatment area will be notified verbally and in writing of the time period in which bait will be exposed in the vicinity to assure the protection of small children and pets. In urban areas, egg baits will be set out each evening and retrieved each morning;

10. Baits will not be placed within 100 feet of wells, ponds, or streams;

11. Upon completion of the program, all unconsumed strychnine-treated baits and all fragments of partially eaten baits will be picked up and placed, individually broken, in a trench mixed with raw soil and covered with not less than 18 inches of soil, or will be incinerated in an approved hospital incinerator;

12. Records will be maintained by the field supervisor as follows:

a. Number and location of baits placed;

b. Number and location of baits consumed;

c. Number of baits disposed of; and

d. Location of disposal site.

13. Coordinator of the program will be a pesticide specialist, Wyoming Department of Agriculture. The field supervisor will be the Campbell County Sanitarian, State-certified as a commercial applicator in human disease vector control and public health pest control. This control program will be

conducted in joint cooperation with Wyoming Extension agents, the Wyoming Health Department, and the Wyoming Game and Fish Commission;

14. A final report will be completed and submitted to the Special Registrations Branch, Registration Division, EPA, by March 31, 1979, and will include the following:

a. Number of livestock found rabid and location;

b. Number of dead skunks found rabid and location;

c. Total number of skunks killed; and

d. The number and location of nontarget species killed during the program by strychnine.

15. The EPA shall be immediately informed of any adverse effects resulting from the use of strychnine in connection with this exemption.

AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: August 24, 1978.

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

[FR Doc. 78-24443 Filed 8-30-78; 8:45 am]

[6560-01]

[OPP-180219; FRL 957-2]

NEW JERSEY, OREGON, AND WASHINGTON

Issuance of Specific Exemptions To Use Mesurol as a Bird Repellent on Blueberries

The Environmental Protection Agency (EPA) has granted specific exemptions to the Oregon and Washington Departments of Agriculture and New Jersey Department of Environmental Protection (hereafter referred to as "Oregon," "Washington," and "New Jersey") to use Mesurol as a bird repellent on blueberries. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

Blackbirds, cedar waxwings, starlings, robins, house finches, grackles, and other depredatory species of birds are responsible for significant losses in blueberry production in each of the States concerned. The birds begin feeding on the blueberry plantings as the fruit ripens in June and continue to do so while the fruit matures until it is harvested in July and August. Although alternative methods of control, such as shooting, carbide cannons, firecrackers, alarm systems, sterilization techniques, and nettings are used, Oregon, Washington, and New Jersey all report they are ineffective. There is no EPA-registered pesticide available for this use.

Oregon claimed yield losses due to bird predation which range from 5-33 percent with an average of 25 percent. Since blueberries are valued at 50 cents per pound, economic losses on Oregon's 500 acres could exceed $500,000. Previous data from Washington indicate an average loss of 30 percent from bird predation on 800 acres of blueberries valued at $504,000; losses may reach 95 percent in some fields. Mesurol has been shown in small plot tests to reduce losses 20-60 percent. It is estimated that if losses were reduced 50 percent, a net savings of 600,000 pounds of berries valued at $252,000 could occur. New Jersey estimated that a 20-50 percent blueberry crop loss valued at $172,396-$430,992 could occur because of bird predation.

An experimental use permit was issued on September 19, 1977, allowing the use of Mesurol for the same use as requested in this specific exemption in the same States. A temporary tolerance for residues of the active ingredient in or on blueberries was established at the same time.

Oregon, Washington, and New Jersey requested that EPA allow application of Mesurol 75 percent Wettable Powder, EPA Reg. No. 3125-288, manufactured by Chemagro Agricultural Division, Mobay Chemical Co. Application will be made using air or ground equipment by State-licensed or State-certified commercial or private applicators or growers. A maximum of 6 pounds of formulation will be applied per growing season in three applications made in sufficient water for complete coverage but in not less than 5 gallons per acre. In western Oregon, a total of 500 acres will be treated; and a total of 800 acres west of the Cascade Mountains will be treated in Washington. In New Jersey, 600 acres will be treated; a representative of Mobay Chemical will assist in field applications.

The Endangered Species specialists, Fish and Wildlife Service, U.S. Department of the Interior, have been advised of these requests and have no objections.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of depredating birds has occurred or is about to occur in blueberry fields; (b) there is no pesticide presently registered and available for use to control depredating birds in Oregon, Washington, and New Jersey; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the depredating birds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, Oregon, Washington, and New Jersey have been granted specific exemptions to use the pesticide noted above until August 31, September 30, and August 15, 1978, respectively, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The product Mesurol 75 percent Wettable Powder, EPA Reg. No. 3125-288, manufactured by Chemagro Agricultural Division, is authorized;

2. In western Oregon, applications may be made by ground or aerially at a rate of 2-2.67 pounds formulation per acre in sufficient water for complete coverage but in not less than 5 gallons per acre. In Washington, applications may be made by ground or helicopter, west of the Cascade Mountains, at a rate of 2 pounds formulation per acre on mixed varieties or 2.67 pounds formulation per acre on homogenous stands, in sufficient water for complete coverage but in not less than 5 gallons per acre. In New Jersey, applications may be made by ground or aerially at a rate of 2.67 pounds formulation per acre in sufficient water for complete coverage, but in not less than 5 gallons per acre. At least a 7-day period shall be observed between applications in all three States;

3. A maximum of 3,000 pounds Mesurol formulation may be applied in Oregon. A maximum of 3,600 pounds Mesurol formulation may be applied to each in Washington and Oregon;

4. A maximum of 500 acres of blueberries may be treated in Oregon, 800 acres in Washington, and 600 acres in New Jersey;

5. A maximum of three applications may be made and a maximum of 6 pounds formulation may be applied per growing season;

6. Application shall be made by: State-licensed commercial applicators or growers in Oregon, State-licensed commercial or State-certified private applicators in Washington, and by State-certified private or commercial applicators in New Jersey;

7. The duration of the application period shall be from June 15 to August 31, 1978, in Oregon, from July 1 to September 30, 1978, in Washington, and from June 15 to August 15, 1978, in New Jersey;

8. Applications may be made until harvest;

9. A residue level not exceeding 30 ppm for the active ingredient 3,5-di-

methyl-4-(methylthio)phenyl methylcarbamate, has been evaluated as adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education and Welfare has been advised of this action;

10. In Oregon, applications of Mesurol shall be made on recommendations of qualified Oregon State University Research and Extension agents. In Washington, personnel of the Washington State University Extension Service will provide information to applicators regarding timing of application, dosage rates, and application procedures. In New Jersey, personnel of the Cooperative Extension Service shall make recommendations concerning timing of applications. A representative of Mobay Chemical may assist in field applications;

11. All label precautions shall be followed;

12. Final reports summarizing the results of these programs shall be submitted by December 31, 1978;

13. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from these programs; and

14. Oregon, Washington, and New Jersey shal each be responsible for insuring that all provisions of its specific exemption are followed in that State.

AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; U.S.C. 136 *et. seq.*).

Dated: August 24, 1978.

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

[FR Doc. 78-24444 Filed 8-30-78; 8:45 am]

[6560.01]

[OPP-180225; FRL 957-5]

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND VIRGINIA DEPARTMENT OF AGRICULTURE AND COMMERCE

Issuance of Specific Exemptions to Use Permethrin To Control Colorado Potato Beetles on Potatoes

The Environmental Protection Agency (EPA) has granted specific exemptions to the New Jersey Department of Environmental Protection and the Virginia Department of Agriculture and Commerce (hereafter referred to as "New Jersey" and "Virginia") to use permethrin for the control of the Colorado potato beetle on 8,000 acres of potatoes in New Jersey and 4,000 acres of potatoes in Virginia. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

The potato beetle is perhaps the best known beetle in the United States. Both the larvae and the adults feed on leaves of potato plants. This feeding may result in defoliation of the vines which prevents development of tubers or greatly reduces yield.

According to the Applicant, the Colorado potato beetle has historically been a problem in the mid-Atlantic area. Although Guthion, Imidan, methoxychlor, Monitor, Parathion, Furadan, Temik, and Thiodan are registered for use on potatoes to control this pest, New Jersey and Virginia claim that these pesticides are unsatisfactory for Colorado potato beetle control due to pesticidal resistance. Although the newly established tolerances for Vydate will enable New Jersey and Virginia to State-register that product, available data indicate that Vydate is likely to be ineffective against high populations of the adult beetles. Based on these factors, New Jersey and Virginia expect a 50-percent-crop loss on a total of 12,000 acres if permethrin is not applied.

New Jersey and Virginia propose to use permethrin, manufactured by FMC Corp. under the trade name Pounce and by ICI Americas, Inc. under the trade name Ambush, at a rate of 0.1 to 0.2 pound active ingredient per acre per application, observing a 7-day preharvest interval, using ground or air equipment. In New Jersey, State-certified private and commercial applicators will make a maximum of four applications. In Virginia, State-certified applicators or persons under their direct supervision will make a maximum of three applications in Accomac and Northampton Counties. The entire program will be under the direct supervision of the Entomologist Scientist-in-Charge, Eastern Shore Branch, Virginia Truck and Ornamentals Research Station.

EPA has determined that residues of permethrin on potatoes would not be expected to exceed 0.1 parts per million as a result of the proposed use provided that only three applications of either Ambush or Pounce are made and a 7-day preharvest interval is observed. A residue level of 0.1 ppm has been judged to be adequate to protect the public health. Since permethrin is toxic to finfish and shellfish and some of Virginia's potato fields are near water, Virginia will establish liaison with the Virginia Bureau of Surveillance and Field Studies to monitor runoff and to take appropriate action to protect fish from runoff. To minimize hazard from spray drift, Virginia will stagger aerial application, respect a buffer zone between treated and aquatic areas, and will make no applications when wind speed exceeds 5 miles per hour. New Jersey potato fields are located inland so no unreasonable adverse effect of aquatic species is expected.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of Colorado potato beetle has occurred; (b) there is no pesticide presently registered and available for use to control the Colorado potato beetle in New Jersey and Virginia; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the Colorado potato beetle is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 15, 1978, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The products Ambush, manufactured by ICI Americas, Inc., and Pounce, manufactured by FMC Corp., may be applied;

2. Permethrin may be applied at a rate of 0.1 to 0.2 pound active ingredient per acre;

3. A maximum of three applications may be made with a pre-harvest interval of 7 days;

4. In New Jersey, a maximum of 8,000 acres may be treated. In Virginia, a maximum of 4,000 acres in Accomac and Northampton Counties may be treated;

5. Applications will be made with air or ground equipment;

6. Spray mixture volumes of 20-100 gallons of water will be applied by ground equipment, 5-10 gallons by aircraft;

7. Applications will be made by State-certified private of commercial applicators or persons under the direct supervision of a State-certified applicator;

8. Ambush and Pounce are toxic to fish, birds, and other wildlife. They must be kept out of any body of water. They must be applied where runoff is likely to occur. They may not be applied when weather conditions favor drift from treated areas. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

9. Permethrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which an ecomomically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

10. Potatoes treated according to the above provisions are not to have residues of permethrin in excess of 0.1 ppm. Potatoes with residues of permethrin which do not exceed this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare has been advised of this action;

11. A 60-day crop rotation restriction will be observed;

12. The EPA will be immediately informed of any adverse effects resulting from the use of permethrin in connection with this exemption; and

13. New Jersey and Virginia are each responsible for assuring that all of the provisions of its specific exemption are met and each must submit a report summarizing the result of this program by February 15, 1979.

In Virginia, the following two conditions also apply;

1. The spray program will be under the direction and supervision of the entomologist scientist-in-charge, Eastern Shore Branch, Virginia Truck and Ornamental Research Station, Painter, Va; and

2. Virginia shall establish liaison with the Virginia Bureau of Surveillance and Field Studies in order to monitor runoff and, where necessary, take appropriate action to protect fish and shellfish in waterways near permethrin-treated potato fields. In order to minimize spray drift, the following restrictions will be observed for applications of permethrin:

a. Aerial applications will not be made when wind speed exceeds five miles per hour;

b. A buffer zone of 200 feet (horizontal distance) between treated areas and aquatic areas will be observed; and

c. Aerial applications should be staggered in time in areas where fish and shellfish are important resources.

(AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*)).

Dated: August 24, 1978.

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

[FR Doc. 78-24445 Filed 8-30-78; 8:45 am]

[6560-01]

[PF-109; FRL 957-1]

PESTICIDE PROGRAMS

Filing of Pesticide/Feed Additive Petitions

Pursuant to the provisions of sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration:

PP 8F2095. Monsanto Agricultural Products Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. Proposes that 40 CFR 180 be amended by establishing a tolerance for the combined residues of the herbicide butachlor [*N*-(butoxymethyl)-2-chloro-2',6'-diethyl-acetanilide] and its metabolites (calculated as butachlor) in or on the raw agricultural commodities rice (rough) at 0.5 part per million (ppm) and rice straw at 3.0 ppm. Proposed analytical method for determining residues is by gas chromatography using a hydrogen flame ionization detector. PM25. (202-426-2632)

FAP 8H5188. Monsanto Agricultural Products Co. Proposes that 21 CFR 561.55 be amended by establishing a regulation permitting residues of the above pesticide product in the animal feeds rice bran and rice hulls with a tolerance limitation of 1.0 ppm. PM25.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Inquiries concerning these petitions may be directed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at the number cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: August 23, 1978.

HERBERT S. HARRISON,
Acting Director, Registration Division.

[FR Doc. 78-24447 Filed 8-30-78; 8:45 am]

[6560-01]

[FRL 956-8; OPP-33000/552]

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 effected by the enactment of the amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the 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 the 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 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the 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, are 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 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 (d) wishes to assert confidential status under section 10 for his data, 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 Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street 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.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 12 and 16—202-755-9315.
PM 21 and 22—202-426-2454.
PM 24—202-755-2196.
PM 31 and 32—202-426-2635.
PM 15 and 17—202-426-9427.
PM 23—202-755-1397.
PM 25—202-426-2632.

The Interim Policy Statement requires that claims for compensation be filed on or before October 30, 1978. 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. Registration will be delayed pending resolution of section 10 claims.

Dated: August 23, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

APPLICATION RECEIVED 33000/552

EPA File Symbol 9767-RR. Cal-Tek Industries, 1833 North Eastern Avenue, Los Angeles, Calif. 90032. STEAMITE-QD. 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. Republished: Revised offer to pay. PM31

EPA File Symbol 10011-L. Whiteworth Inc., 422-W. Alondra Boulevard, Gardena, Calif. 90248. WHITEWORTH GERMICIDAL SOLUTION BRAND OF BENZALKONIUM CHLORIDE. Active Ingredients: Alkyl (C12 61%, C14 23%, C16 11%, C18 5%); Dimethyl benzyl ammonium chlorides 0.133%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA File Symbol 10650-G. Monarch Chemicals, Inc., 37 Meadow Street, Utica, N.Y. 13502. MON-O-CHLOR. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 10659-LU. Occidental Chemical Co., P.O. Box 1185, Houston, Tex. 77001. BEST TURF FOOD WITH INSECT CONTROL. Active Ingredients: Chlorpyrifos (0,0-Diethyl 0-(3,5,6-trichloro-2-pyridyl)phosphorothioate) 0.26%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 10827-EI. Bio-Lab, Inc., P.O. Box 1489, Decatur, Ga. 30031. ALGAE-TROL DCM ALGICIDE. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) dimethyl dichlorobenzyl ammonium chloride 19.23%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA Reg. No. 11525-30. Peterson/Puritan, Inc., Hegeler Lane, Danville, Ill. 61832. P/P DISINFECTANT DEODORANT SPRAY "G". Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.072%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.072%; Ethanol 53.088%; n-Alkyl (C18 92%, C16 8%) n-Ethyl morpholinium ethylsulfate 0.040%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM31

EPA File Symbol 11547-UE. Share Corp., P.O. Box 230, Milwaukee, Wis. 53223. SHARE DIRECT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides .07%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides .07%; Sodium Carbonate .09%; Tetrasodium ethylenediamine tetraacetate .03%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA File Symbol 11613-RA. Southeastern Sanitary Supply Co., P.O. Box 1541, Montgomery, Ala. 36102. SESSCO 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. Republished: Revised offer to pay. PM31

EPA File Symbol 11668-RN. T. & R. Chemicals, Inc., 700 Celum Road, P.O. Box 216, Clint, Tex. 79836. PINE OIL CLEANER. Active Ingredients: Pine Oil 80%, Soap 13%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA File Symbol 12188-RN. Holder's Pest Control Co., 5619 Southwest Freeway, Houston, Tex. 77027. HOLDER'S .5% GRANULAR INSECTICIDE. Active Ingredients: Chlorpyrifos (0,0-diethyl 0-(3,5,6 - trichloro - 2 - pyridyl)phosphorothio- ate) 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 12353-I. Omega Chemical Co., 6935 West 62d Street, Chicago, Ill. 60638. SAN-201-G. 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%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12844-E. Standard Sanitary Supplies, Inc., 730 Northwest 57th Place, Fort Lauderdale, Fla. 33309. SANICO SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 12886-R. Valdosta Industrial Chemical Co., 210 South Oak Street, P.O. Box 188, Valdosta, Ga. 31601. VICCO SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 14324-R. Top Products, Inc., 943 Dixwell Avenue, Hamden, Conn. 06514. TOPCIDE. 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%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA Reg. No. 18962-3. Cheme Haus, Inc., 160 Concord Drive, Casselberry, Florida 32707. FB. Active Ingredients: 2-Chloro-4-phenylphenol 50%; 3-Chloro-salicylanilide 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Formula change. PM32

EPA File Symbol 24690-E. LaGasse' Pool Construction Company, 2877 West Broward Blvd., Fort Lauderdale, Florida 33312. LAGASSE' SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 30944-G. Erickson Chemical Co., 2800 Shermer Road, Northbrook, Illinois 60062. ALGAECIDE-WS-101. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA File Symbol 33354-RR. Fresh Mark Chemical Corporation, 663 Jackson Avenue, Winter Park, Florida 32789. FRESH WAX 54VF CUCUMBER WAX. Active Ingredients: O-Phenylphenol 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 33354-RE. Fresh Mark Chemical Corporation. FRESH WAX 53 VF TOMATO WAX. Active Ingredients: O-Phenylphenol 2.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 33354-RG. Fresh Mark Chemical Corporation. FRESH WAX 35 CF-R2 CITRUS WAX. Active Ingredients: Sodium O-Phenylphenate .7%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 33354-RU. Fresh Mark Chemical Corporation. FRESH WAX 51 VF VEGETABLE WAX. Active Ingredients: O-Phenylphenol 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 33354-RL. Fresh Mark Chemical Corporation. FRESH WAX 36 CF-R2 CITRUS WAX. Active Ingredients: 2-(4 Thiazolyl)-Benzimidazole .1%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 33955-LUN. Acme Division, PBI/GORDON CORPORATION, 300 South 3rd Street, Kansas City, Kansas 66118. ACME ANT GRANULES. Active Ingredients: Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl)phosphorothio-

ate) 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 34862-R. ESCO Products, Inc., P.O. Box 748, Taft, Texas 78390. ESCO END-A-BUG LAWN GRANULES. Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl)Phosphorothioate] 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 35913-U. Chemical Sales Company, 4661 Monaco Street, Denver, Colorado 80216. SUNSET ALGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA File Symbol 37566-E. Pool Discount Center, Inc., 14335 South Dixie Hwy., Miami, Florida 33176. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 57656-E. Harrell Swimming Pool Supply, 597 W. Hickpochee Avenue, La Belle, Florida 33935. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 37702-R. Norwood Hardware, Inc., 651 N. W. 183rd Street, North Miami, Florida 33169. NORWOOD-CHLOR. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 37879-O. San Joaquin Chemicals, 4684 E. Hedges Avenue, Fresno, California 93703. SANATOX 2211. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) dimethyl dichloro-benzyl ammonium chloride 19.23%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA File Symbol 39669-U. Pro-Specialties, Inc., 7754 W. Harwood Avenue, Wauwatosa, Wisconsin 53213. PRO-135-1. 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. Republished: Revised offer to pay. PM31

EPA File Symbol 41849-R. VIROCHEM, Inc., 1812-C N. Mactavish Avenue, Richmond, Virginia 23230. VIROCIDE 4430. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 41954-R. Aqua Consulting and Engineering, Inc., 13907 Rutland Road, Prospect, Kentucky 40059. 210 A. Active Ingredients: Poly[oxyethylene-(dimethyliminio)ethylene-(dimethyliminio) ethylene dichloride] 6.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 41954-E. Aqua Consulting and Engineering, Inc. 301A. Active Ingredients: Poly[oxyethylene(dimethyliminio)-ethylene-(dimethyliminio) ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 41957-R. D. A. Stuart Oil Co., Ltd., 2727 South Troy Street, Chicago, Illinois 60623. DASCOCIDE 2824. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) ethylene dichloride 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

[FR Doc. 78-24450 Filed 8-30-78; 8:45 am]

[6560-01]

[FRL 956-7; OPP-33000/551]

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 effected by the enactment of the amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the 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 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the 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, are 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 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 (d) wishes to assert confidential status under section 10 for his data, 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 Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street 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.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 12 & 16—202/755-9315	PM 15 & 17—202/426-9427
PM, 21 & 22—202/426-2454	PM 23—202/755-1397
PM 24—202/755/2196	PM 25—202/426-2632
PM 31 & 31—202/426-2635	

The Interim Policy Statement requires that claims for compensation be filed on or before October 30, 1978, 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. Registration will be delayed pending resolution of section 10 claims.

Dated: August 23, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

APPLICATION RECEIVED 33000/551

EPA Reg. No. 4-133. Bonide Chemical Co., Inc., 2 Wurz Avenue, Yorkville, N.Y. 13495. SEVIN 50W INSECTICIDE. Active Ingredients: Carbaryl-(1-naphthyl N-methylcarbamate) 50 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM12

EPA Reg. No. 400-115. Uniroyal Chemical, Division of Uniroyal, Inc., Naugatuck, Conn. 06770. VITAVAX-25 DB FUNGICIDE. Active Ingredients: Carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) 25 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM21

EPA File Symbol 1685-IG. State Chemical Manufacturing Co., 3100 Hamilton Avenue, Cleveland, Ohio 44114. VAPORCIDE. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2,-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 0.250 percent; Related compounds 0.034 percent; Aromatic petroleum hydrocarbons 0.331 percent; Petroleum distillate 99.375 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 3282-42. The d-Con Co., Inc., Distributor, Subsidiary of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016. D-CON PROFESSIONAL FORMULA TREE AND SHRUB INSECT KILLER. Active Ingredients: Pyrethrins 56 percent; Methoxychlor, technical 0.500 percent; Petroleum distillate 10.280 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Formula change. PM13

EPA File Symbol 4186-LUL. Fairfield American Corp., 3932 Salt Road, Medina, N.Y. 14103. GREENHOUSE SYNTHRIN WHITEFLY SPRAY CONCENTRATE. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 24.30 percent; Related compounds 3.30 percent; Aromatic petroleum hydrocarbons 66.40 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM17

EPA File Symbol 6248-RT. Black Magic Co., P.O. Box 16453, Jacksonvile, Fla. 32216. BLACK MAGIC PCO ROACH BAIT. Active Ingredients: Chlorpyrifos(0,0-diethyl-0-(3,5,6 trichloro-2-pyridyl) phosphorothioate) 0.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA Reg. No. 6720-206. Southern Mill Creek Products Co., Inc., P.O. Box 1096, Tampa, Fla. 33601. DURSBAN 4E INSECTICIDE. Active Ingredients: Chlorpyrifos(0,0-diethyl 0-(3,5,6 trichloro-2-pyridyl)phosphorothioate) 40.8 percent; Aromatic petroleum derivative solvent 47.9 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA File Symbol 10873-LG. Tifton Chemical Co., P.O. Box 5, Tifton, Ga. 31794. CROP SPRAY OIL 7E. Active Ingredients: Paraffinic Oil 98.8 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA File Symbol 11715-LN. Speer Products, Inc., 4242 B.F. Goodrich Boulevard, Memphis, Tenn. 38118. SPEER HOME AND GARDEN PRESSURIZED SPRAY. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200 percent; Related compounds 0.028 percent; d-trans Allethrin (allyl homolog of Cinerin I) 0.150 percent; Related compounds 0.012 percent; Aromatic petroleum hydrocarbons 0.272 percent; Petroleum distillate 6.500 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amendment. PM17

EPA File symbol 11715-LA. Speer Products, Inc., AQUEOUS PRESSURIZED SPRAY PROFESSIONAL STRENGTH. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane- carboxylate 0.200 percent; Related compounds 0.027 percent; d-trans Allethrin (allyl homolog of Cinerin I) 0.400 percent; Related compounds 0.030 percent; Aromatic petroleum hydrocarbons 0.265 percent; Petroleum distillate 6.500 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 11715-LT. Speer Products, Inc. SPEER HOUSE AND GARDEN INSECT SPRAY. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200 percent; Related compounds 0.027 percent; d-trans Allethrin (allyl homolog of Cinerin I) 0.200 percent; Related compounds 0.015 percent; Aromatic petroleum hydrocarbons 0.265 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 11715-LO. Speer Products, Inc. SPEER AQUEOUS PRESSURIZED SPRAY FOR HOUSE AND GARDEN. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200 percent; Related compounds 0.027 percent; d-trans Allethrin (allyl homolog of Cinerin I) 0.125 percent; Related compounds 0.009 percent; Aromatic petroleum hydrocarbons 0.265 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 14775-GT. Asgrow Florida Co., P.O. Drawer D, Plant City, Fla. 33566. ASGROW DIPEL 110 DUST. Active Ingredients: *Bacillus thuringiensis*, Berliner, 240 International Units of Potency per mg. (0.11 billion International Units per pound of this product). Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 18466-R. Pulliam, Inc., 2221 Eighth Avenue, Fort Worth, Tex. 76110. POLYGARD ALGAECIDE. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 15.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 21137-4. EM Laboratories Inc., Pesticides Division, 500 Executive Boulevard, Elmsford, N.Y. 10523. FUNGINEX. Active Ingredients: Triforine (N,N'-[1,4-piperazinediylbis (2,2,2-trichloroethylidene)] bis [formamide]) 18.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM21

EPA Reg. No. 40835-1. Garden Aid Products Inc., P.O. Box 1706, Dayton, Ohio 45401. CORM AND BULB DIP 72A. Active Ingredients: 2-(Thiocyanomethylthio) benzothiazole 60 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM22

EPA File Symbol 41835-R. Penick Corp., Dermatologics for Veterinary Medicine, Inc., 7600 Red Road, Suite 110, Miami, Fla. 33143. DURAKYL AQUEOUS PRESSURIZED SPRAY FOR PETS AND KENNEL. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250 percent; Related compounds 0.034 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 41835-E. Stiefel Laboratories, Inc., Dermatologics for Veterinary Medicine, Inc. DURAKYL LOTION. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250 percent; Related compounds 0.034 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 41878-R. LJB Laboratories, 1001 E. Cass Street, St. Johns, Mich. 48879. BF-100 BLACK FLY REPELLENT. Active Intredients: 2 Ethyl-1,3 Hexanediol Dimethyl Phthalate 100 Percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

[FR Doc. 78-24451 Filed 8-30-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have 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 each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 11, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularly allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3693.

Filing party: Robert R. Kimmel, Associate General Counsel and Assistant Secretary, International Multifoods Corp., 1200 Multifoods Building, Eighth and Marquette, Minneapolis, Minn. 55402.

SUMMARY: Agreement No. T-3693, between the Seaway Port Authority of Duluth (Port) and International Multifoods Corporation (IMC), provides for the construction and lease to IMC of a grain elevator and grain handling facility at Duluth, Minn. The Port will finance IMC's construction of the facility by issuing bonds totalling $3,600,000. Proceeds from the issuance of the bonds will be deposited into the Bond Fund and the Construction Fund. IMC will construct the facility for the Port and IMC will be reimbursed for construction costs from the Construction Fund. After the completion of construction, any excess Construction Fund money shall: (1) Be transferred to the Bond Fund; or (2) at IMC option, credited against the basic rent. IMC shall pay into the Bond Fund basic rent in an amount sufficient to pay all principal, interest, and premiums on the bonds. As additional rent, IMC shall pay all fees, taxes, charges, and rentals for services and facilities, insurance premiums, permit and license fees and interest on outstanding bonds. IMC shall pay as supplemental rent, an annual sum equal to six-tenths of 1 percent of the outstanding principal amount of the bonds in consideration of the issuance of the bonds and to defray administrative expenses.

By Order of the Federal Maritime Commission.

Dated: August 25, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24625 Filed 8-30-78; 8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/Operators and Vessels
01029	Port City Towing Co.: *Cecilia Carol.*
01068	The Bowring Steamship Co., Ltd.: *Desdemona.*
01074	Sigval Bergesen: *Sydfonn.*
01087	Dampskibsselskabet Torm A/S: *Torm Hilde.*
01233	Buries Markes Ltd.: *La Costa.*
01334	American President Lines, Ltd.: *President Taylor, President Wilson.*
01351	The Hadley Shipping Co. Ltd.: *Cerinthus.*
01361	Transportacion Maritima Mexicana S.A.: *Atlantic, Tepic.*
01905	The Ben Line Steamers Ltd.: *Benhope, Benvannoch.*
0203	Australind Steam Shipping Co., Ltd.: *Australind.*
02127	Societe d'Armement et de Navigation, Charles Schiaffino: *Charles Schiaffino.*
02259	Neste Oy: *Vinha.*
02344	Empresa Lineas Maritimas Argentinas S.A.: *Buenos Aires II, Chaco, Chubut, Cordoba, Corrientes II, Entre Rios II, Jujuy II, La Pampa, La Rioja, Rio Negro II, Rio Oliva, Salta, San Juan, San Luis, Santiago Del Estero, Tierra Del Fuego II.*
02418	Sidermar Di Navigazione S.P.A.: *Capricornus, Delphinus, Perseus, Ursa Major, Gemini, Nai Marcus, Aspra, Hydrus, Laminatore, Corona Boreale, Acciaiere, Orsa Minore, Pleiades, Vela, Sagittarius, Centauro, Galassia, Fucinatore, Corona Australe, Aquarius, Auriga.*
02477	American Dredging Co.: *No. 140, No. 141.*
02499	Union Oil Co. of California: *UN 2501, UN 2502.*
02622	Ernst Russ on behalf of Partenreederei, M.V. Reinhart Lorenz Russ: *Cast Porpoise.*
02917	Scherkate Sahami Keschtirani Melli Arya: *Arya Shams.*
02952	Blandford Shipping Co. Ltd.: *Blackford.*
02962	Nippon Kisen Kabushiki Kaisha: *Malacca Maru.*
02975	Venture Shipping (Managers) Ltd.: *Baron Venture.*
03149	Isla Grande Compania Naviera S.A.: *Kyvernitis.*
03279	Delta Steamship Lines Inc.: *Delta Caribe, Delta Bolivia, Delta Colombia, Delta Ecuador, Delta Panama, Delta Peru, Delta Venezuela, Delta Africa, Delta America, Santa Magdalena, Santa Maria, Santa Mariana, Santa Mercedes.*
03294	Companhia de Navegacao Lloyd Brasileiro: *Guaruja.*
03315	Afran Transport Co.: *Globe Constellation.*
03505	Showa Yusen Kabushiki Kaisha: *Yamaguchi Maru.*
03508	Taiyo Gyogyo Kabushiki Kaisha: *Taiyo Maru No. 66.*
03635	Hines, Inc.: *Hines 426.*
03640	Pan Ocean Bulk Carriers, Ltd.: *Pan Liberty.*
03878	Ingram Barge Co., a division of Ingram Corp.: *Cyril A. Bahr.*
04161	A & S Transportation Co.: *Maria.*
04252	Rendondo Shipping Co., Inc.: *Agni.*
04362	Courtage & Transports S.A.: *Rocroi.*
04393	World Wide Transport Inc.: *Venture Espana.*
04398	Hapag-Lloyd Aktiengesellschaft: *Alemania Express.*
04565	Consolidated Navigation Corp.: *Burmah Agate.*
04625	American Commercial Lines, Inc.: *Chem 120, Chem 121, Chem 122, Chem 123, Chem 124, Chem 125, Chem 126, Chem 127, Chem 128, Chem 129, Chem 130, Chem 131, Chem 132, Chem 133.*
04768	Texaco Overseas Tankship Ltd.: *Sipca Jubail, Sipca Dareen.*
05004	Flowers Transportation Inc.: *Patsy Swank.*
05008	Star Kist Foods Inc.: *Don Juan, Southern Pacific, Connie Jean, Eastern Pacific, Finisterre, J. M. Martinac, Pisces, Marco Polo, Michaelangelo, Raffaello, Claudia B.*
05027	Westwind Africa Line Ltd.: *John C, Sophie C, Flora C.*
05251	Navigation Maritime Bulgare: *Musala, Balkan.*
05298	Reederei Joachim Drescher: *Stefan Drescher, Oliver Drescher, Lloyd Drescher.*
05437	The Dow Chemical Co.: *PC 2805, NMS 1408, NMS 1409.*
05500	Petroleos Mexicanos: *Tolteca.*
05537	Empresa Navegacion Mambisa: *Africa Cuba.*
05572	Lafarge Concrete Ltd.: *Tsimshian Warrior, St. Malo, D. M. 60.*
05578	Baltic Shipping Co.: *Stakhanovets Kotov.*
05579	Black Sea Shipping Co.: *Yakutsk, Askold, Yauza, Uelen, Yasnaya Polyana.*
05704	Murmansk Shipping Co.: *Kapitan Meshcheryakov, Aleksandr Nevskiy.*
05743	Reederei Barthold Richters: *Fredeburg.*
05770	C. A. Venezolana de Navegacion: *Aragua, Monagas.*
06248	Commercial Corporation Sovrybflot: *Proliv Laperuza, Sajanskie Gory, Ostrov Ushakova, Ostrov Lisyanskogo, Sakhalinskie Gory, Khudoznik S. Gerasimov, Zolotoy Rog, Khudoznik Deyneka, Tanker Omsk, Surgutneftj, Sibirjneftj, Biryuza.*
06409	India Streamship Co., Ltd.: *Indian Goodwill.*
06311	Kanai Gyogyo Kabushiki Kaisha: *Tomi Maru No. 51.*
06510	Compagnie Nationale Algerienne de Navigation, C.N.A.M.: *Nedroma.*
06548	Halter Marine Services, Inc.: *A. W. Martin.*
06709	Ahjin Haewoon Jushik Hosea: *Hongjin.*
06729	Overseas Containers Ltd.: *Mairangi Bay.*
06877	Societe Francaise de Transports Maritimes: *Ville de Dunkerque.*
06995	Novorossiisk Shipping Co.: *Gori, Nikoloz Baratashvili.*
07255	Teh Tung Steamship Co., Ltd.: *Africanstars.*
07304	Yhtyneet Paperitehtaat Oy: *Walki.*
07389	Esso S.A.P.A.: *Petromar Rosario.*
07572	Ming Corp.: *American Islander.*
07661	Partrederiet for MS Atlantic Prelude: *Atlantic Prelude.*
07688	Euro Lines Shipping Co., Ltd: *Eurco Link.*
08537	Arcanave Shipping Corp.: *Karina.*
08538	Arcamare Shipping Corp.: *Arcasea.*
08617	Fairmont Enterprises Ltd.: *Bless River.*
08823	Conoco Shipping Co.: *Venture Independence.*
09003	VTG Vereinigte Tanklager und Transportmittel GMBH: *Parktor, Falderntor.*
09006	Stena Liné AB: *Kirk Trailer.*
09074	Zuito Shipping Co., Ltd.: *Nippou Maru.*
09103	Anemone Shipping Co., Ltd.: *Elias.*
09189	Government of the Trust Territory of the Pacific Islands: *Micro Pilot.*
10094	Echo Marine Inc.: *Echo I.*
10493	Rederiji M.S. Shipmair Five: *Saba.*
10591	Transpac Marine S.A.: *TM 644.*
10601	Green Bay Transportation Co.: *Panama, Suez.*
10696	K.G.G. Co., S.A.: *Sea Bird No. 8, Sea Bird No. 89.*
10855	Alkor Shipping Co., Ltd.: *Alice Redfield.*
10885	Arrow Ltd.: *Leto.*
10931	Hansung Shipping Co., Ltd.: *Kaduna.*
11016	Uiterwyk Lines Ltd.: *Maria U.*
11082	Interocean Management Corp.: *Thompson Pass.*
11091	Miami Caicos Shipping, Ltd.: *Olive M.*
11101	Pillar Maritime Corp.: *Dione.*
11247	Global Marine Deepwater Drilling Inc.: *Glomar Atlantic.*
11310	Perdix Shipping Ltd.: *Astraea.*
11372	Crowley Maritime International S.A.: *CMC 450-6.*
11417	Etablissement Maritime Camille: *Yona B.*
11526	Sockabo Transports, Inc.: *Memphis, Mississippi.*
11553	John C. Culbertson and Roger L. Jacobson: *Barnacle.*
11614	Chung Gai Ship Management Co., Ltd.: *Summer Birdie, White Jasmine.*
11827	Triumph Steamship Co., Ltd.: *Iolcos.*
12105	Transocean Liners (PTY) Ltd.: *Tibati.*
12116	K.K. Kiyofuji Kaium: *Hoyo Maru.*
12255	Ugland Management Co. A/S: *Amax Mariner.*

Certificate No.	Owner/Operators and Vessels
12380	Alabama River Towing Co., Inc.: *G.T. 111.*
12583	Unitra Kaiun Kabushiki Kaisha: *Kikuko Maru.*
12739	Leader Marine Co. S.A.: *Nevera.*
12779	Hakko Gyogyo Kabushiki Kaisha: *Hakko Maru No. 17.*
12838	Kaisei Kaiun Tsusho Kabushiki Kaisha: *Kaisei Maru No. 5.*
12868	C.V.G. Ferrominera Orinoco C.A.: *Icoa.*
12920	China Ocean Shipping Co.: *Daan.*
12960	Pallas Shipping Agency Ltd.: *Golden Canary.*
13047	Marine Land Air Transportation S.A.: *Phoenix Star.*
13129	Goldensari Shipping Pte. Ltd.: *Goldensari I.*
13146	Spliethoff's Bevrachtingkantoor B.V.: *Spiegelgracht, Singelgracht, Schippersgracht.*
13264	Glory Maritime Corp., Inc.: *Blue Osaka.*
13368	Sanko Kisen (Cayman) Ltd.: *Golden Sunray, Golden Gate Sun, Ocean Ambassador.*
13389	Yugen Kaisha Kiyofuji Shoji: *Shunyo Maru No. 2.*
13461	Hesperus Maritime Ltd.: *Scarlet Carrier.*
13491	K.K. Iyo Kosan: *Dahlia.*
13714	Nueva Fortuna Corp.: *Nea Tyhi.*
13739	Ilectra Compania Naviera S.A.: *Aghios Ermolaos.*
13743	Nueva Esperanza Corp.: *Nea Elpis.*
13794	Korea Shipbuilding & Engineering Corp.: *Stolt Busan.*
13797	Galleon Shipping Corp.: *Galleon Opal, Galleon Jade.*
13838	Mahart Shipping Co. Maritime Management: *Radnoti.*
13856	Fuji Marine Co., Ltd.: *Kyokusho.*
13859	Partenreederei MS Norriand: *Norriand.*
13861	Agios Andreas Compania Naviera S.A.: *Agios Andreas.*
13873	Industrial Maritima S.A.: *Cieisa Once, Cieisa Doce.*
13881	Navtransport Shipping Ltd.: *Kaadershikh.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24626 Filed 8-30-78; 8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

In addition, notice is also given that the operators indicated by an asterisk (*) have established evidence of financial responsibility, with respect to the vessels indicated, as required by subsection (c) of section 204 Trans-Alaska Pipeline Authorization Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Alaska Pipeline) pursuant to Part 543 of Title 46 CFR.

Certificate No.	Owner/Operator and Vessels
13922	Timber Point Shipping Corp.: *Golden Med.*
13925	Atria Maritime Corp.: *Never on Sunday.*
13927	Sea Orient Compania Naviera S.A.: *Agrabele.*
13928	Margaronis Navigation Agency Ltd.: *Sideris.*
13929	International Sea Center S.A.: *Lagada Beach.*
13930	Marcosky Shipping Corp. S.A.: *Marcalan.*
13931	Kumiai Senpaku Co. Ltd.: *Pioneer Maru.*
13932	Atlantic Oil Drilling Corp. Inc.: *Dania.*
13933	Lemand Trading Inc.: *Georgis Gerontas.*
13934	Rapid Transit Shipping, Ltd.: *Marys Ketch.*
13935	Oy Banship Ltd.: *Meltemi.*
13936	American Commercial Barge Line Co.: *Helen R.*
13937	Vinstra Shipping Co. Pte. Ltd.: *Cherry Cearelle, Cherry Prince.*
13938	Samsa Compania Naviera S.A.: *Captain Stefanos.*
13939	Sung Shipping Ltd.: *Eastern River.*
13940	Martria Maritima S.A.: *Siganto A.S.*
13941	Antioch Maritime Co. Ltd.: *Teta.*
13942	Delfini Shipping Co. Ltd.: *Irenes Success.*
13943	Transbulk Carriers, Inc.: *Overseas Marilyn.*
13946	Suhela Corp. Monrovia (Liberia): *Hydrangea.*
13947	Tolani Shipping Co. Ltd.: *Prabhu Satram.*
13948	Ippocrates Shipping Co. Ltd.: *Proton.*
13949	Yuwa Kaiji K.K.: *Takuyo Maru.*
13951	Penninsular Shipping Co. Ltd.: *Garefowl.*
13952	Taijin Gyogyo Kabushiki Kaisha: *Taijin Maru No. 3.*
13953	Sanami Shikai, Ltd.: *Jinpo Maru No. 65.*
13954	Fontanamare S.P.A.: *Gina Iuliano.*
13957	Lenco Shipping Co. Inc.: *Santa Katerina.*
13958	Central Field Line (Liberia), Ltd.: *Wild Cosmos.*
13959	Tripod Shipping S.A.: *Orange Vertex.*
13960	Maatschap Scheepvaartbedrijf Threant: *Anna Drent.*
13961	Nakano Line Ltd.: *Yuzui Maru.*
13962	Oriental Pine Shipping S.A.: *Oriental Pine.*
13963	The Fuso Shipping Co., Ltd.: *Gosei Maru.*
13964	Hanshin Senpaku K.K.: *Shinryu Maru, Shinko Maru.*
13965	Donan Oil Co., Ltd.: *Akizuki Maru.*
13966	Chrisdan Shipping Co. S.A.: *Chrisdan Trader*
13967	Premier Maritime Inc.: *Aglaos.*
13969	Partrederiet Varenna: *Varenna.*
13970	Partrederiet Vibeke: *Vibeke.*
13971	Compania Ptolemais Navegacion S.A.: *Lake Katya.*
13972	Golden Lance Shipping, Inc.: *Golden Lance.*
13974	L. Jeansson AB: *Pacific Crown.*
13976	Sea Victory Compania Naviera S.A.: *Good Wind.*
13977	A/S Hanseatic Venture: *Mosel.*
13978	Pacos Carrier Inc.: *Mar De Cortez, Chavez.*
13979	Lilac Shipping Inc.: *Ocean Ace.*
13980	Lavender Shipping Inc., *Ocean Glory.*
13981	Hakko Shoun K.K.: *Hakko Arrow.*
13982	Jacaranda Shipping Corp.: *Athens Sky.*
13983	Panchar Navigation Co. S.A.: *Golnar, Kesnar.*
13984	Energy Chemical Marine, Inc.: *FFM Virihaure, FFM Virus.*
13985	Perseus Shipping Co. Ltd.: *Adonis, Tapisan.*
13986	Rio Venture Shipping Co. S.A.: *Glory Clipper.*
13987	Aramis Navigation Co. Ltd.: *Evpo Aramis.*
13989	Glendale Shipping Co. S.A.: *Lena.*
13990	Boyang Shipping Co., Ltd.: *Yong Jin.*
13991	Ocean Bulk Ships, Inc.: *Overseas Harriette.*
13992	Madoqua Ltd.: *Sprey Bridge.*
13993	Diamond Global S.A.: *Fairmont.*
13994	K/S A/S Salvador North Sea Tugs I: *Odin Salvator.*
13995	K/S Arvid Bergvall Jr. Shipping A/S: *Oslo Salvator, Orla Salvator.*
13996	K/S A/S Salvator North Sea Tugs II: *Thor Salvator.*
13997	Dover Compania Naviera S.A.: *Alexandra.*
13998	Sudatlantica Compania Naviera S.A. Panama: *Socrates.*
14000	Hammerton Shipping Co. S.A. Monrovia: *Cape Breton.*
14001	H. Dantas Servicos Maritimos S.A.: *Oxala.*
14003	Nedlloyd Bulkchem B.V.: *Mare Novum, Mare Magnum.*
14004	Lunmar, S.A.: Spes.
14005	High Pool S.A.: *Newnham.*
14007	South Seas Fishing Co. N.V.: *South Seas.*
14008	Prosperity Maritime Co. Ltd.: *Prosperity.*
14010	Victoria Maritima Co. S.A.: *Panagis C.*
14014	Kyoritsu Senpaku Kogyo K.K.: Tocoma Maru.
14015	T.A.M. Maritime (Panama) S.A.: Glory Ocean.
14016	Hinode Kisen Co., Ltd.: Tofuku Maru.
14018	Harold Dee Magee: *APT 150, APT 151.*
14019	Hellenic Co. Overseas Cruise Vessels, S.A.: *World Renaissance.*
14020	Societe Malgache de Transports Maritimes: *Fontsy.*
14023	Tor Line AB: *Manaure V, Manaure VI.*
14024	Ayios Symeon Shipping Co. Ltd.: *Niphon Alpha.*
14025	Marconi Shipping Ltd.: *Oinoussai Alpha.*
14028	Lash Carriers, Inc.: Atlantic Forest.
14030	El Paso Southern Tanker Co.: El Paso Southern.
13033	Devonport Shipping Co. Ltd.: Devonport.
14034	World Planet Shipping Ltd.: *Star Hong Kong.*
14038	Alaska Star, Inc.: *Alaska Star.*
14039	Hellenicsand Navigation Ltd.: *Holstenland.*
14042	Wisconsin Shipping Corp.: *Maxine.*
14043	Laodikia Co. Naviera S.A.: *Laodiki.*
14044	Kaminaki Shipping Co. Ltd.: *Captain D. Gregos.*
14049	Helleniciand Navigation Ltd.: *Holstenland.*
14050	Chrysovalantou Shipping Corp.: *Panseptos.*
14051	Naoichi Nozu: *Matsuoka Maru No. 2.*
14052	Kalymnos Shipping Corp.: *Kalymnos.*
14054	Moosonee Transportation Ltd.: *Arctic Breaker.*
14056	Biscayne Shipping Co. S.A. Panama: *Biscayne Sea.*
14057	Orestis Compania Naviera S.A. Panama: *Santo Pioneer.*
14059	A/S Iddi: *Joatlantic.*
14061	Miss Agnes Corp.: *Mereghan II.*
14062	Gamma Maritime Inc.: *Cosmas.*
14063	Eastern Grace Transports Inc.: *Eastern Grace.*
14065	Agia Anastasia Shipping Co. S.A.: *Agia Anastasia.*
14068	Nordische Transportgesellschaft MBH & Co. Bulker-Kommanditgesellschaft: *Wiking Bulker.*
14071	Lemon Shipping Pte. Ltd.: *Mediolanum.*
14073	Partrederiet Vanessa: *Vanessa.*
14074	Partrederiet for MT Inland Managing Owner Ingemar Blennow: *Inland.*
14075	D. Jose Enrique Pereira Molares: *Puente Lourido.*
14079	Bosch Shipping Co.: *Edna B.*
14081	Panwell Shipping Ltd.: *Kiyo, Honesty, Murray, Providence, Kawana.*
14083	Coastguard Shipping Co. S.A.: *Amphiope.*
14086	Ogden Traveler Transport, Inc.: *Traveler.*
14088	Harcourt Marine Enterprises Corp.: *Mariverda.*
14089	P & O Bulk Shipping Ltd.: *Galpara.*
14090	Salmedina, S.A.: *El Quemado, El Diamante, Conchita P. Pelayo.*
14091	Akron Corp.: *Akron.*
14092	Lambourne Corp.: *Pilot Merchant.*
14093	Geoffrey Shipping Ltd.: *Osco Sun.*
14094	I/S Sireskib: *Francis Drake.*
14096	Bright Sky Shipping Co.: *Elbreeze.*

Certificate No.	Owner/Operator and Vessels
14097	Charles Shipping Ltd.: *Osco Star.*
14099	Oceanhope Shipping Co., Ltd.: *Stanford.*
14100	Spring Maritime Co.: *Spring Odessa.*
14103	Pearl Car Carriers S.A.: *Pearl Ace.*
14104	Traghetti del Mediterraneo SPA: *Dolphin Patricia.*
14110	The Bolton Steam Shipping Co. Ltd.: *Rubens, Reynolds.*
14111	Jugoslovenska Pomorska Agengija-Beograd: *Bratstvo, Sloboda.*
13112	Bermuda Express Service N.V.: *Oleander.*
14119	Shipco 669 Inc.: *Kenai.*
14121	Mimi Shipping Co., Ltd.: *Mimi.*
14124	K/S Sjaelland: *Kraka.*
14127	Kanefuji Gyogyo Kabushiki Kaisha: *Shunyo Maru No. 18.*
14128	Eternal Shipping S.A.: *Orange Zenith.*
14130	Greenwood Maritime Inc.: *Kallixenos.*
14133	Tarsurf Shipping Co.: *Tarpon Santiago.*
14134	Tri-Ever Shipping Ltd.: *Tri Ever.*
14135	Astir II Maritime Corp.: *Astir II.*
14138	Kinode Gyogyo Kabushiki Kaisha: *Hinode Maru No. 52, Hinode Maru No. 53, Hinode Maru No. 55.*
14140	Venture Bay Shipping Co. Ltd.: *Eastern Envoy.*
14146	Larina Shipping Inc. and General Ore International Corp.: *Inayama.*
99007	Exxon Corp.:* *Exxon Barge No. 33.*
99012	Interocean management Corp.:* *Thompson Pass, Brooks Range.*
99021	Gulf Oil Corp.:* *Gulfcrest, Gulfpride, Gulfsolar, Gulfoil, Gulfspray, Gulfsupreme, Gulftiger, Gulfiion, Gulfseal, Gulfdeer.*
99057	Marine Alaska, Inc.:* *B. T. Alaska.*
99061	Chas. Kurz & Co., Inc.:* *Chilbar.*
99062	Sabine Towing & Transportation Co., Inc.:* *Colorado.*
99063	Long Beach Tugboat Co.: *Skilak.*
99064	Bolton Shipping Co., Inc.:* *Pisces.*
99065	Colby Shipping Co., Inc.:* *Virgo.*
99066	Kingston Shipping Co., Inc.:* *Capricorn.*
99067	Amherst Shipping Co., Inc.:* *Aries.*
99068	East River Steamship Corp.:* *Brooklyn.*
99069	Bouchard Transportation Co., Inc.:* *B. No. 50, B. No. 55, B. No. 60, B. No. 70, B. No. 75, B. No. 90, B. No. 85, B. No. 95, B. No. 105, B. No. 115, B. No. 125, B. No. 80.*
99070	Amerada Hess Corp.:* *Hess Voyager.*
99075	Moran Towing & Transportation Co., Inc.:* *Sea Horse I, Maine, Rhode Island, Connecticut, New Jersey.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24627 Filed 8-30-78; 8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01011	Aktieselskabet det Ostasiatiske Kompagni: *Asmara.*
01039	Den Norske Amerikalinje A/S: *Altafjord.*
01065	Reederei Richard Schroder: *Clarita Schroder.*
01077	H. M. Wrangell & Co. A/S: *Gard.*
01088	Schulte & Bruns: *Heinrich Schulte Stadt Bremen Johann Schulte.*
01107	N.V. Stoomvaart-Maatschappij Oostzee (Curacao): *Hibiscus.*
01224	A/S Inger: *Baie Comeau.*
01248	Dampskibs A/S Avenir-Skibs A/S Beaumont, Beaulieu, Beaufort, Seattle: *Beaufort.*
01255	Skjelbreds Rederi A/S: *Nortrans Kathe.*
01428	Ocean Transport & Trading Ltd.: *Agamemnon.*
01431	F. Bolton Group Ltd.: *Rossetti, Rubens, Reynolds.*
01458	St. Vincent Shipping Co., Ltd.: *Helen Miller, Susan Miller.*
01465	Scottish Ship Management Ltd.: *Cape Sable.*
01798	Stag Line, Ltd.: *Photinia.*
02023	Bohannon S.A.: *Roga.*
02036	Deep Sea Shipping Co.: *Ocean Blue.*
02151	Anchor Line Ltd.: *Kirrie Moor.*
02156	Lorentzens Skibs A/S: *Robert Stove.*
02163	J. Lauritzen A/S: *Evita Dan.*
02194	Compagnie Generale Maritime: *Jacques Cartier, Kouang Si, Mauricien, Magellan, Vosges.*
02195	Welsh Overseas Freighters Ltd.: *Welsh Endeavour.*
02198	Peninsular & Oriental Steam Navigation Co.: *Meynell, LNG Challenger, Gambada, Gazana, Grafton, Eridge, Heythrop, Ottawa, Irfon, Ardtaraig, Ardlui, Ardvar, Gambhira, Lauderdale, Kildare, Garmula, Jedforest, Ardmore, Ardmay, Fernie, Garinda, Aurora, Garbeta, Gandara.*
02238	John T. Essberger: *Elsa Essberger.*
02287	International Union Lines Ltd.: *Union Defender.*
02314	A/S Athene (Jorgen Bang): *Afrodite.*
02499	Union Oil Co. of California: *P.O. 2005.*
02684	H. F. Cordes & Co.: *Ludmila C.*
02829	Sociedad Naviera Pan-Europea, S.A.: *Bianca.*
02956	Ashland Oil Inc.: *Star Shamrock.*
02982	The Shipping Corp. of India: *Har Kisan.*
03008	Rederi Ab Wallitank: *Figaro.*
03137	Cunard Steam-Ship Co. Ltd.: *Cunard Champion, Cunard Calamanda.*
03181	NV Kustvaartmij Holland Groningen: *Atlantic Sky.*
03221	Rederiet for M/S Arawak: *Arawak.*
03261	Diakan Shipping S.A.: *Diakan Maskot.*
03391	Societe Maritime Shell: *Magdala.*
03441	Japan Line K.K.: *Saint Marcel.*
03444	Kashima Kisen K.K.: *Hiyo Maru, Shoyo Maru, Kayo Maru.*
03467	Nichiro Gyogyo K.K.: *Kuroshio Maru No. 38, Shinsei Maru No. 7, Taian Maru No. 118, Shunyo Maru No. 18, Zuiho Maru No. 8, Kuroshio Maru No. 27.*
03471	Nippo Kisen Kabushiki Kaisha: *Tensho Maru.*
03480	Osaka Senpaku K.K.: *New Caledonia Maru.*
03482	Ryutsu Kaiun K.K.: *Ryuwa Maru, Ryutai Maru.*
03505	Showa Yusen Kabushiki Kaisha: *Okada Maru.*
03692	Marmac Corp.: *GBL-2.*
03720	Global Marine Inc.: *Glomar III, Cuss I, Glomar IV.*
03727	Continental Oil Co.: *7042.*
03878	Ingram Barge Co. a division of Ingram Corp.: *H. B. Ingram, ETT 118, Cal White, Drake 992, J & S 4000, IS 1, IS 2, St. Paul, STC-2506, STC-2005, STC-2507.*
04015	Sultana Fishing Co. Inc.: *Caribbean.*
04016	Mayaguez Fishing Co. Inc.: *Hornet.*
04192	Fruchtreederei Herald Schuldt & Co.: *Ahrensburg.*
04228	Compagnie Maritime Belge (Loyd Royal) S.A.: *Ms. Moliro.*
04329	Pancorbo Compania Naviera S.A.: *Penteli.*
04356	Pacific Far East Line, Inc.: *Gulf Bear.*
04386	Maritime Co. of the Philippines: *Philippine Corregidor.*
04398	Hapag-Lloyd: *Munsterland.*
04404	Lars Rej Johansen: *Joasla, Roselina, Jowood, Bolina.*
04413	Leif Hoegh & Co. A/S: *Hoegh Miranda.*
04504	Sumiyoshi Gyogyo Kabushiki Kaisha: *Kohoku Maru No. 12.*
04564	Yamashita-Shinnihon Kisen Kaisha: *Kimihata Maru.*
04583	Gatx Oswego Corp. *Oswego Glory.*
04679	Ratnakar Shipping Co. Ltd: *Ratna Usha.*
04807	Williamson Marine Transport Inc.: *Ohio.*
04939	Panocean-Anco Ltd.: *Post Charger.*
05035	Floritaram Compania Naviera S.A.: *Florita.*
05040	General Construction Co.: *Mukilted.*
05042	State of Alaska: *Matanuska.*
05092	S.A. Esso N.V.: *Esso Ghent.*
05096	Esso Tankschiff Reederei: *Esso Koln, Esso Essen.*
05098	Esso Tankers Inc.: *Esso Penang.*
05298	Reederei Joachim Drescher: *Oliver Drescher, Franzishka Drescher.*
05595	Interessentskapet Obo: *Obo Prince.*
05624	Pertamina: *Permina Samudra I.*
05736	Flota Cubana de Pesca: *Isla de la Juventud.*
05770	C.A. Venezolana de Navegacion: *Anzoategui, Merida.*
06013	Osaka Asahi Kaiun Kabushiki Kaisha: *Tarakan Maru.*
06122	Mares Neptunes S.A. Panama: *Bouboulina Wave.*
06200	Fletamentos y Transportes Maritimos S.A.: *Navemar.*
06435	Dampskibsaktieselskabet den Norske Afrika-09 Australielinie, A/S Tankfart VI: *Turcoman, Tyr, Trinidad.*
06487	Naviera Ason S.A.: *Jose Maria Ramon.*
06662	Reederei Claus Peter Offen K.G.: *Holstensand, Holstenland.*
06765	Sameiet M/S Pan: *Pan.*
06944	Edreimar S.A.: *Silverfir.*
07001	Nakaya Kaiun Kabushiki Kaisha: *Koyo Maru.*
07044	Hermes Sea-Trade Corp.: *Helios.*
07052	Aginic Shipping Corp. of Monrovia: *Agnic.*
07106	Lindinger Amber K/S: *Lindinger Amber.*
07195	Lindinger Coral K/S: *Lindinger Coral.*
07202	Lindinger Brilliant K/S: *Lindinger Brilliant.*
07382	Marushin Senpaku Kabushiki Kaisha: *United Trader, Shinyu Maru, Allied Trader.*
07401	Naviera de Exportacion Agricola, S.A.: *Benisa.*
07602	Eggleston Towing Co. Inc.: *Nixon Butte.*
07640	Exxon Co. U.S.A.: *Exxon Barge No. 17, Exxon Barge No. 13, Exxon Barge No. 14.*
07987	W. T. Burton Co., Inc.: *C-1.*
08024	Comp. de Vapres Stelvis S.A.: *Tolmidis.*
08157	Fratelli D'Amico-Armatori S.P.A.: *Mare Aegeum.*
08296	Lykomedis Compania Maritima, S.A.: *Lykomedis.*
08311	Viaventura Oceanica Armadora S.A.: *Johnny B.*
08528	Clean Bay Inc.: *Recoverer.*
08530	Prompt Shipping Corp., Ltd.: *Timor Career, Flores Career.*
08778	Hercules Inc.: *Herpro I, Herpro II.*
08884	Artic Shipping Singapore (PTE) Ltd.: *Trianon.*
09045	Isanaso Shipping Co. S.A.: *Michalis K.*
09070	Raleigh Bay Shipping Co., Ltd.: *Pavlina.*
09075	Lousianis Shipping Co., Ltd.: *Irenes Sincerity.*
09096	Dong Won Industrial Co., Ltd.: *91 Dong Won.*
09152	Metropolitan Chartering Inc.: *Odyssey 10.*
09204	Sea-Alaska Products, Inc.: *Vega.*
09397	Cape Cuvier Shipping Co., Ltd.: *Titika P.*
09399	Compania de Navegacion Aghia Dectini S.A.: *Lily M.*
09546	Robo Shipping Co., S.A.: *Ana Patricia.*
09564	Clare Island Shipping Co., Ltd.: *Bouboulina Faith*
09645	Caspian Sea Shipping Co., Ltd.: *Caspian Sea.*
09700	Gretna Machine & Iron Works, Inc.: *DXE 1501.*

Certificate No.	Owner/Operator and Vessels
09726	Fujioka Kaiun K.K.: *Daioh Maru.*
09776	Sunlease Co., Ltd.: *Sunflower.*
10202	Microwave Equipment Co., Inc.: *Orange County Express.*
10319	Nederlandse Zeeboormaatschappij B.V.: *Sedneth I.*
10428	Garden Saturn Shipping Ltd.: *Garden Saturn.*
10453	International Shipping Management Inc.: *Alsharkiah.*
10545	Scheepvaartbedrijf Santa Lucia BV: *Tempo.*
10563	Libas Shipping Corp.: *Hetland Courier.*
10791	San Constantino Compania Armadora y Fletadora S.A.: *Constantinos T.*
10827	Galaxy Transport Inc.: *Sun Salvia.*
10912	Aris Shipping Enterprises Inc.: *Aris.*
11000	An Lee Navigation Co. S.A.: *Fu Kang.*
11011	Power Corp. of Canada, Ltd.: *Gleneagles.*
11028	Ermis Shipping Enterprises Inc.: *Ermis.*
11223	Adalbert Friesecke: *Albert Friesecke, Frank Friesecke.*
11277	Caribe Tugboat Corp.: *St. Croix, St. Kitts, Juneau, Manati, Luiquillo, Cedar.*
11299	Rioship Co., Ltd.: *Rio Lindo.*
11372	Crowley Maritime International S.A.: *Noordzee Challenger.*
11392	Okeania S.A.: *Australis.*
11473	Sergeant Shipping Corp.: *Georgios.*
11547	East Arrow Compania Naviera S.A.: *Golden Arrow.*
11614	Chung Gai Ship Management Co., Ltd.: *Rose Acacia, Rose Daphne.*
11677	Aegean Sky Inc.: *Blue Zoe.*
11680	Murton Shipping Co.: *Providence.*
11714	Global Transport Organisation: *220, Genmar 106, Genmar 105, 450-10, 450-11, Barge PS 204, Barge Cordova.*
11778	Alpine Steamship Co., Inc.: *Penn.*
11921	Point Landing Fuel Corp.: *PL 101.*
11955	Loadstar Shipping Co., Inc.: *Kiowa.*
11961	Oy Tankships AB: *Caldereta.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24628 Filed 8-30-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

JOY DEVELOPMENT CORP.

Acquisition of Bank

Joy Development Corp., Davenport, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 14.9 percent of the voting shares of Hillsdale Development Corp., Davenport, Iowa ("Hillsdale"), a bank holding company that owns 91.4 percent of the voting shares of Old Farmers & Merchants State Bank, Hillsdale, Ill. ("Bank"). 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 Chicago. 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 not later than September 18, 1978.

Board of Governors of the Federal Reserve System, August 18, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24478 Filed 8-30-78; 8:45 am]

[6210-01]

STATE EXCHANGE BANCSHARES, INC.

Formation of Bank Holding Company; Correction

AUGUST 23, 1978.

In FR Doc. 78-23662 appearing at page 37490 of the issue for Wednesday, August 23, 1978, the final date for receipt of comments should read September 15, 1978.

Board of Governors of the Federal Reserve System, August 23, 1978.

GRIFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24477 Filed 8-30-78; 8:45 am]

[6210-01]

LOOMIS CO.

Formation of Bank Holding Company

Loomis Co., Omaha, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1824(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank, Loomis, Nebr. 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 September 23, 1978.

Board of Governors of the Federal Reserve System, August 25, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24499 Filed 8-30-78; 8:45 am]

[6210-01]

F&M NATIONAL CORP.

Proposed Retention of Winchester Credit Corp., and Its Wholly-Owned Subsidiary, Rouss Finance Co.

F&M National Corp., Winchester, Va., 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 retain voting shares of Winchester Credit Corp., and its wholly-owned subsidiary, Rouss Finance Co., both of Winchester, Va. Notice of the application was published on August 5, 1978 in Winchester Evening Star, a newspaper circulated in Winchester, Va.

Applicant states that the proposed subsidiary would engage in the activities of (1) making or acquiring, and servicing loans and other extensions of credit including secured and unsecured, consumer commercial and agricultural loans, installment sales contracts, and other forms of receivables and such other types of loans and credit extensions as are customarily engaged in by a consumer credit or finance company, and (2) acting as agent or broker for the sale of credit life insurance, credit accident, and health insurance which is related to the making or acquiring of such loans. 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, increased 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 September 25, 1978.

Board of Governors of the Federal Reserve System, August 24, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24483 Filed 8-30-78; 8:45 am]

[6210-01]

MORRIS COUNTY BANKSHARES, INC.

Formation of Bank Holding Company

Morris County Bankshares, Inc., Naples, Tex., 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 by acquiring 80 percent or more of the voting shares of The Morris County National Bank of Naples, Naples, Tex. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 22, 1978.

Board of Governors of the Federal Reserve System, August 24, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24486 Filed 8-30-78; 8:45 am]

[6210-01]

PLAINVIEW BANCSHARES, INC.

Formation of Bank Holding Company

Plainview Bancshares, Inc., Plainview, Tex., 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 by acquiring 84 percent of the voting shares (less directors' qualifying shares) of The City National Bank of Plainview, Plainview, Tex. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 19, 1978.

Board of Governors of the Federal Reserve System, August 24, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24485 Filed 8-30-78; 8:45 am]

[6210-01]

QUAIL COUNTY INVESTMENT CORP.

Formation of Bank Holding Company

Quail County Investment Corp., Pawnee City, Nebr., 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 by acquiring 99 percent or more of the voting shares of Pawnee County Bank, Pawnee City, Nebr. 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 Reserve Bank, to be received not later than September 20, 1978.

Board of Governors of the Federal Reserve System, August 24, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24484 Filed 8-30-78; 8:45 am]

[6820-27]

GENERAL SERVICES ADMINISTRATION

Office of the Federal Register

NATIONAL FIRE CODES

Proposed Revision of Standards; Correction

AGENCY: Office of the Federal Register, GSA.

ACTION: Correction of comment date.

SUMMARY: This document corrects a previous FEDERAL REGISTER document published on Thursday, August 10, 1978 (43 FR 35548).

FOR FURTHER INFORMATION CONTACT:

Martha Girard, 202-523-5240.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-22176 appearing at page 35548 in the issue of Thursday, August 10, 1978, on page 35548, first column, under the paragraph titled "DATES", in the third line, the date "November 16, 1978" should read "November 6, 1978."

FRED J. EMERY,
Director, Office of the Federal Register.

[FR Doc. 78-24479 Filed 8-30-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT BOARD

Proposed MAC's and Announcement of Public Hearing

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice.

SUMMARY: In accordance with 45 CFR 19.5 (as amended at 43 FR 35310-11, August 9, 1978), the Pharmaceutical Reimbursement Board proposes Maximum Allowable Cost (MAC) limits on the drugs specified below and announces a public hearing with regard to these proposed MAC's.

DATES: *Hearing:* October 18, 1978 (9 a.m. to 5 p.m.); and October 19, 1978 (9 a.m. to 5 p.m.). *End of Comment Period:* (30 days from publication). *End of Period for Submission of Requests To Appear at the Hearing:* October 3, 1978.

PLACE OF HEARING: Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-472-3821.

SUPPLEMENTARY INFORMATION: The Pharmaceutical Reimbursement Board has been established within the Health Care Financing Administration for the purpose of setting a MAC for multiple source drugs for which reimbursement is provided under Medicaid, Medicare, and other programs administered by the Department. Pursuant to 45 CFR 19.5 (as amended at 43 FR 35310-11, August 9, 1978), the Pharmaceutical Reimbursement Board proposes the following MAC limits:

Amoxicillin, capsules, 250mg—$0.2316 per capsule.
Amoxicillin, capsules, 500mg—$0.4412 per capsule.
Amoxicillin, oral suspension, 125mg/5cc—$0.0271 per cc.
Amoxicillin, oral suspension, 250mg/5cc—$.0461 per cc.
Erythromycin, tablets, 250mg—$0.0535 per tablet.
Erythromycin stearate, tablets, 250mg—$.0697 per tablet.
Erythromycin stearate, tablets, 500mg—$0.1250 per tablet.
Penicillin G Potassium, tablets, 400mu—$0.0180 per tablet.
Penicillin G Potassium, tablets, 800mu—$0.0265 per tablet.
Ampicillin, capsules, 250mg—$0.0595 per capsule.
Ampicillin, capsules, 500mg—$0.1103 per capsule.

The Board originally identified these multiple source drugs as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. The Food and Drug Administration has advised the Board that there is no regulatory action, either pending or under consideration, that would be a reason for delaying or withholding the establishment of MAC's on the drugs listed above. In making the initial determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board made use of a HCFA-sponsored survey of drug-

store sales by IMS America, offers to sell as found in the Red Book, several comments from manufacturers, and State MAC limits on these drugs already in effect in certain States. The FDA advice and the economic data listed above are available for inspection at the Office of Pharmaceutical Reimbursement and a limited number of copies are available upon request.

Interested persons and organizations are invited to submit in writing comments on the proposed MAC's. All comments received by October 2, 1978, will be considered and will be maintained for public inspection at the Office of Pharmaceutical Reimbursement.

A public hearing on the proposed MAC's will be held October 18 and 19, 1978. Persons or organizations wishing to make presentations must submit to the Board's Executive Secretary by October 3, 1978, at least 20 copies of the proposed oral presentation in its entirety together with all supporting studies and materials and the names and addresses of proposed participants. The Board will grant every request to appear when the presentation is relevant to the proposed MAC.

Dated: August 25, 1978.

PETER RODLER,
Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 78-24487 Filed 8-30-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Bilingual Education. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: September 15 and 16, 1978.

ADDRESS: Harambi House, Hospitality Suite, Room 308-310, 2225 Georgia Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Louis J. Serpa, Office of Bilingual Education, Reporter's Building, Room 421, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-2600.

The National Advisory Council on Bilingual Education is established under section 732(a) of the Bilingual Education Act (20 U.S.C. 880b-11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The meetings on September 15 and 16, 1978, will be open to the public from 9 a.m. until 5 p.m. each day.

September 15, 1978: A meeting of the Full Council on the following subjects is scheduled from 9 a.m. to 5 p.m. The proposed agenda includes the following:

(1) Report on Title VII Awards for Fiscal Year 1978.

(2) Status Report on the Title VII Management Institute.

(3) Status Report on Title VII Legislation and Regulation.

(4) Report on a National Assessment Survey of Title VII Project Directors and Teachers.

(5) Report on expenditures.

(6) Committee Meetings.

September 16, 1978: The proposed agenda includes the following:

(1) Old Business.

(2) Comittee Reports.

(3) New Business.

(4) Coordination with other Programs—Discussion.

Records will be kept of all Council proceedings and shall be available for public inspection after approval, by the full Council, of said records has been obtained. These records will be available in Room 421, Reporter's Building, 300 Seventh Street SW., Washington, D.C. Written requests for such records should be sent to 400 Maryland Avenue SW., Reporter's Building, Room 421, Washington, D.C. 20202.

In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C., on August 28, 1978.

DEAN BISTLINE,
Acting Director, Office of Bilingual Education.

[FR Doc. 78-24500 Filed 8-30-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. app. I, sec. 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Committee meetings: September 15, 1978, 8:30 a.m. to 5 p.m. Full Council Meeting: September 16, 1978, 8:30 a.m. to 5 p.m.

ADDRESS: Cosmopolitan on Broadway, Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Stuart A. Tonemah, Executive Director, National Advisory Council on Indian Education, Suite 326, 425 13th Street NW., Washington, D.C. 20004, 202-376-8882.

The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act, Title IV of Pub. L. 92-318 (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92-318 and amended by Pub. L. 93-380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92-318), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner of Education in developing criteria and regulations for the administration and

evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Pub. L. 81-874) as added by Title IV, Part A, of Pub. L. 92-318;

(7) Submit to Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such program; and

(8) Be consulted by the Commissioner of Education regarding the definition of the term "Indian," as follows:

Sec. 453 [Title IV, Pub. L. 92-318]. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, of (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo of Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

The meeting on September 15-16, 1978, will be open to the public. This meeting will be held at the Cosmopolitan Hotel on Broadway, Denver, Colo.

The proposed agenda includes:

(1) Action on previous meeting minutes.

(2) Executive Director's report.

(3) Update on pending legislation.

(4) Committee reports.

(5) Special reports from the field.

(6) Review of NACIE's fiscal year 1978 Budget.

(7) Plans for future NACIE activities.

(8) Regular Council business.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street NW., Suite 326, Washington, D.C. 20004.

Dated: August 28, 1978, signed at Washington, D.C.

STUART A. TONEMAH,
Executive Director, National Advisory Council on Indian Education.

[FR Doc. 78-24636 Filed 8-30-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, section 10(a)(2)).

DATE: October 5, 1978, 8 p.m. to 10 p.m., Executive Committee Meeting; October 6, 1978, 8:30 a.m. to 5 p.m.; October 7, 1978, 9 a.m. to 1:30 p.m.

ADDRESS: Radisson Burlington Hotel, Burlington Square, Burlington, Vt., on October 5; October 6 from 2 p.m. to 5 p.m.; and October 7. Memorial Room, Waterman Building, University of Vermont, Burlington, Vt., on October 6 from 8:30 a.m. to 1 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Adivsory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004, 202-376-8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Region I Adult Education Programs.
Regulation Issues (Adult Education Act).
Committee Reports.
Hearings with State Directors of Adult Education.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on August 25, 1978.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 78-24504 Filed 8-30-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 64659]

WYOMING

Application

AUGUST 21, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Co. of Wyoming of Green River, Wyo., filed an application for a right-of-way to construct a 4-inch lateral pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 98 W.,
Sec. 22, NW¼NW¼, N½SW¼ and SW¼SW¼.

The proposed pipeline will transport natural gas produced from Higgins Well No. 3 located in the SE¼NW¼ of sec. 15 and Higgins Well No. 5 locate in the NE¼SW¼ of sec. 22 to points of connection with Stauffer Chemical Co. of Wyoming's existing mailine pipeline in the SW¼SE¼ sec. 21, SW¼SW¼ sec. 22 in T. 18 N., R. 98 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting coments should inlcude their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24457 Filed 8-30-78; 8:45 am]

[4310-84]

[Wyoming 64959]

WYOMING

Application

AUGUST 22,1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Co., of Casper, Wyo., filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting oil and other synthetic liquid fuels, and related facilities across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 46 N., R. 92 W.,
Sec. 12, lots 3 and 4, SW¼NE¼, N½NW¼, SE¼NW¼, SE¼NW¼ and NW¼SE¼.

The proposed pipeline will transport oil and other synthetic liquid fuels, and related facilities from the Altus No. 12-3 well located within lot 4 traversing northeasterly to a point in the NW¼NW¼, section 12, T. 46 N., R. 92 W., Washakie County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyo. 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24458 Filed 8-30-78; 8:45 am]

[4310-84]

[Wyoming 64686]

WYOMING

Application

AUGUST 22, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 92 W.,
Sec. 3, lots 6, 7 and 8.
T. 15 N., R. 92 W.,
Sec. 28, E½SW¼ and SW¼SE¼;
Sec. 33, W½NE¼ and SE¼NE¼;
Sec. 34, W½SW¼.

The proposed pipeline will transport natural gas from the Fair Federal No. 3-1 well, located in the NE¼ of section 3, T. 14 N., R. 92 W., into an existing natural gas pipeline facility located in the S½ of section 28, T. 15 N., R. 92 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24459 Filed 8-30-78; 8:45 am]

[4310-84]

OUTER CONTINENTAL SHELF PROPOSED OIL AND GAS LEASE SALE NO. 48

Availability of Draft Environmental Statement and of Public Hearings Regarding Proposed Oil and Gas Lease Sale

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement relating to a proposed Outer Continental Shelf oil and gas lease sale of 217 tracts of submerged lands on the Outer Continental Shelf offshore southern California.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 7663 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in the following public libraries: Bodkin, McCarthy, Sargent & Smith, Attention: Library, 707 Wilshire Boulevard, 51st floor, Los Angeles, Calif. 90071; Business and Economics Department, Los Angeles Public Library, 630 West Fifth Street, Los Angeles, Calif. 90071; California State University, Library-Documents Section, P.O. Box 4150, Fullerton, Calif. 92634; California State University, Attention: Oviatt Library—Government Documents, 18111 Nordhoff Street, Northridge, Calif. 91330; County of Los Angeles Public Library, Attention: Government Publications Unit, 320 West Temple, Los Angeles, Calif. 90012; County of Ventura Library Service Agency, Attention: Documents Section, P.O. Box 771, Ventura, Calif. 93001; Long Beach Public Library, Attention: Government Publications Department, Ocean and Pacific, Long Beach, Calif. 90802; Loyola University, School of Law Library, 1440 West Ninth Street, Los Angeles, Calif. 90015; San Diego Public Library, Science and Industry Department, Attention: Dorothy Van Nice, 820 E Street, San Diego, Calif. 92101; Santa Barbara Public Library, Attention: Reference Section, P.O. Box 1019, Santa Barbara, Calif. 93102; Santa Monica Public Library, Attention: Document Librarian, 1343 Sixth Street, Santa Monica, Calif. 90401; The Sea Library, Attention: Jill Fairchild, 408 Sycamore Road, Santa Monica, Calif. 90402; University of California, Water Resources Center Archives, Attention Beth Willard, Librarian, 2081 Engineering I, Los Angeles, Calif. 90024; University of California, Government Publications Department, General Library, P.O. Box 19557, Irvine, Calif. 92713; University of California, Serials, SIO Library, C-075C, La Jolla, Calif. 92093; University of California, The Library, Government Publications Department, Santa Barbara, Calif. 93106; and University of Southern California, Government Documents Department, P.O. Box 77983, Los Angeles, Calif. 90007.

In accordance with 43 CFR 3301.4, public hearings will be held for the purpose of receiving comments and suggestions relating to the proposed lease sale. The exact locations and dates for these hearings will be announced at a later date. Comments on the draft environmental statement will be accepted until November 15, 1978.

After a public hearing is held and comments have been received and analyzed, a final environmental statement will be prepared.

ARNOLD E. PETTY,
Acting Director,
Bureau of Land Management.

Approved:

LARRY MEIERTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-24503 Filed 8-30-78; 8:45 am]

[4310-84]

Bureau of Land Management

[NM 34274]

NEW MEXICO

Application

AUGUST 23, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 815), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDAN, NEW MEXICO

T. 19 S., R. 33 E.,
Sec. 7, SE¼NE¼;
Sec. 8, SW¼NW¼.

These pipelines will convey natural gas across 0.320 mile of public lands in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with considration of whether the application should 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, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24505 Filed 8-30-78; 8:45 am]

[4310-84]

[NM 34272]

NEW MEXICO

Application

AUGUST 24. 1978.

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 Co. has applied for one 4½-inch natural gas pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 13, W½SE¼
Sec. 24, NW¼NE¼.

This pipeline will convey natural gas across 0.354 mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24506 Filed 8-30-78; 8:45 am]

[4310-84]

[NM 34269]

NEW MEXICO

Application

AUGUST 23, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 2 W.,
Sec. 4, lot 1.

This pipeline will convey natural gas across 0.165 of a mile of public land in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

FR Doc. 78-24507 Filed 8-30-78; 8:45 am]

[4310-84]

[NM 34418]

NEW MEXICO

Application

AUGUST 24, 1978.

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), Tuco, Inc., has applied for one 6-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 12 S., R. 30 E.,
Sec. 27, SW¼SW¼.

This pipeline will convey natural gas across 0.14 mile of public land in Chaves County, N.M.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N.M. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24508 Filed 8-30-78; 8:45 am]

[4310-84]

[OR 11113]

OREGON

Termination of Proposed Withdrawal and Reservation of Land

AUGUST 23, 1978.

Notice of application, OR 11113, filed by the Bureau of Land Management, U.S. Department of the Interior, for withdrawal and reservation of land was published as FEDERAL REGISTER Document 74-10070 on page 15339 of the issue of May 2, 1974. The land was proposed for research natural area purposes known as Hunter Creek Bog. The applicant agency has cancelled its application in its entirety. The land involved is described as follows:

WILLAMETTE MERIDIAN

T. 37 S., R. 14 W.,
Sec. 13, SE¼.

The area described contains 160 acres in Curry County, Ore.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), such land will be at 10 a.m. on October 3, 1978, relieved of the segregative effect of the above-mentioned application.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24509 Filed 8-30-78; 8:45 am]

[4310-84]

[Wyoming 64658]

WYOMING

Application

AUGUST 21, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Co. of Wyoming, of Green River, Wyo., filed an application for a right-of-way to construct 3-inch and 4-inch pipelines for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 103 W.,
Sec. 3, N½SW¼, SE¼SW¼ and SW¼SE¼;
Sec. 4, lot 2, S½NE¼, SE¼NW¼, NE¼SE¼ and NE¼SW¼;
Sec. 10, N½NE¼;
Sec. 11, W½W½ and SE¼NW¼;
Sec. 14, W½NW¼;
Sec. 15, SE¼NE¼ and E½SE¼;
Sec. 22, E½E½.
T. 24 N., R. 103 W.,
Sec. 33, SE¼SW¼ and S½SE¼;
Sec. 34, S½SW¼.

The proposed pipelines will transport natural gas produced from the Acquitaine Well 13-33, located in the SE¼SW¼ sec. 33, and the Acquitaine Well 13-34, located in the SE¼SW¼ sec. 34, T. 24 N., R. 103 W.; and from the Acquitaine Well 1-4, located in the NE¼SW¼ sec. 4, Acquitaine Well 13-3 located in the SW¼SW¼ sec. 3, and the Acquitaine Well 11-11, located in the W½NW¼ sec. 11, all within T. 23 N., R. 103 W., to a point of connection with Stauffer Chemical Co. of Wyoming's existing main pipeline located in the SE¼SE¼ of sec. 22, T. 23 N., R. 103 W., in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

FR Doc. 78-24510 Filed 8-30-78; 8:45 am]

[4310-84]

[Wyoming 64956]

WYOMING

Application

Notice is hereby given that pursuant to section 8 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Co., of Casper, Wyo., filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting oil and other synthetic liquid fuels, and related facilities, across the following described lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 47 N., R. 91 W.,
Sec. 6, lots 11 and 14.
T. 48 N., R. 91 W.,
Sec. 31, lot 8.

The proposed pipeline will transport oil and other synthetic liquid fuels, and related facilities from the Hanson Honey Butte No. 4 well within the SW¼SW¼ sec. 31, T. 48 N., R. 91 W., extending southerly to a point in the SW¼NW¼ sec. 6, T. 47 N., R. 91 W., Washakie County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyo. 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24511 Filed 8-30-78; 8:45 am]

[4310-84]

[Wyoming 64692]

WYOMING

Application

AUGUST 22, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch and 8⅝ inch pipeline and proposed regulator site for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 92 W.,
Secs. 8, 20, and 30.
T. 18 N., R. 93 W.,
Sec. 2.
T. 19 N., R. 93 W.,
Secs. 12, 14, and 26.
T. 20 N., R. 93 W.,
Sec. 36.

The proposed 4½-inch pipeline will transport natural gas from the Marathon-Federal 1-2 well in the SW¼ sec. 2, to a point of connection with the 8⅝-inch pipeline in the SW¼ sec. 2, within T. 18 N., R. 93 W., Carbon County. The 8⅝-inch pipeline will then transport the natural gas in a northeasterly direction through the regulator site and into Colorado Interstate Gas Co.'s existing 22-inch and 24-inch main lines in the SE¼ sec. 8, T. 20 N., R. 92 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Avenue, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24512 Filed 8-30-78; 8:45 am]

[4310-84]

[Wyoming 64957]

WYOMING

Application

AUGUST 22, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Co., of Casper, Wyo., filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting oil and other synthetic liquid fuels and related facilities across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 47 N., R. 91 W.,
Sec. 18, SW¼NE¼, SE¼NW¼, NE¼SW¼ and W½SE¼.

The proposed pipeline will transport oil and other synthetic liquid fuels and related facilities from the Hanson Honey Butte No. 5 well in the SW¼NE¼ and the Altus No. 18-3 well located in the SE¼NW¼, flowing southerly to a point in the SW¼SE¼, sec. 18, T. 47 N., R. 91 W., Washakie County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be processing with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyo. 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24513 Filed 8-30-78; 8:45 am]

[4310-31]

Geological Survey

COAL LAND CLASSIFICATION ORDER NEW MEXICO NO. 104

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

Coal Lands:

T. 27 N., R. 13 W.,
Sec. 9, SE¼;
Sec. 10, S½;
Sec. 11, W½SW¼;
Sec. 14, W½W½;
Sec. 15;
Sec. 16, E½;
Sec. 21, E½;
Sec. 22.

T. 29 N., R. 15 W.,
Secs. 1 to 4, inclusive;
Sec. 5, lots 1 to 3, inclusive, 5 to 9, inclusive, S½NE¼, SE¼NW¼;
Sec. 9, lots 1 to 3, inclusive;
Sec. 10, lots 1, 4, 5, 6, and 9, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 11;
Sec. 12;
Sec. 13, lots 1 to 4, inclusive, N½N½;
Sec. 14, lots 1 to 7, inclusive, NE¼NE¼;
Sec. 15, lot 1.

Reclassified Coal Land from Noncoal Land:

Prior classification of the following subdivisions as noncoal is hereby revoked and the land is reclassified as coal land:

T. 19 N., R. 5 W.,
Sec. 1;
Sec. 2, lots 1 to 4, inclusive, SE¼NE¼, W½SW¼, SE¼SW¼, E½SE¼, SW¼SE¼;
Sec. 3;
Sec. 4, lots 1 and 2, SE¼NE¼;
Sec. 7, N½SE¼, SE¼SE¼;
Sec. 8, SW¼, S½SE¼;
Sec. 9, S½SW¼, SE¼;
Sec. 10;
Sec. 11, N½N½, SE¼NE¼, SW¼SW¼, E½SE¼;
Sec. 12;
Sec. 13, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 14, E½NE¼, W½NW¼, S½;
Sec. 15, N½, NE¼SW¼, N½SE¼;
Sec. 16, N½N½;
Sec. 17, N½NE¼, SW¼NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 18, N½SE¼.

T. 19 N., R. 6 W.,
Sec. 4, S½NW¼, N½SW¼, SE¼SW¼, W½SE¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, N½SE¼;
Sec. 6, lot 1, SE¼NE¼;
Sec. 9, NW¼NE¼, SE¼NE¼;
Sec. 10, N½S½;
Sec. 11, SW¼NE¼, N½NW¼, S½;
Sec. 13, W½NW¼, NW¼SW¼;
Sec. 14, N½NE¼, SE¼NE¼.

T. 20 N., R. 5 W.,
Sec. 1 to 36, inclusive.

T. 20 N., R. 6 W.,
Sec. 1 to 19, inclusive.
Sec. 20, N½N½;
Sec. 21, N½, SE¼;
Sec. 22 to 26, inclusive;
Sec. 27, N½, SE¼;
Sec. 30, lots 1 to 4, inclusive, W½E½, E½W½;
Sec. 31, lots 1, 2, 6, and 7, W½NE¼, SE¼NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 32, lots 1 to 4, inclusive, SW¼NW¼, N½S½;
Sec. 35, NE¼;
Sec. 36, N½, SE¼.

T. 20 N., R. 7 W.,
Secs. 1 to 7, inclusive;
Secs. 9 to 15, inclusive;
Sec. 16, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 17, N½, N½SE¼;
Sec. 18, lots 1 and 2, NE¼, E½NW¼;
Sec. 22, NE¼, E½NW¼, NW¼NW¼, N½SE¼, SE¼SE¼;
Sec. 23 to 25, inclusive;
Sec. 26, NE¼, E½NW¼, NW¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 36, NE¼NE¼.

T. 20 N., R. 8 W.,
Secs. 1 and 2;
Sec. 3, lots 1 to 4, inclusive, S½N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 4, lot 1;
Sec. 11, NE¼NE¼;
Sec. 12, N½, E½SW¼, SE¼;
Sec. 13, N½NE¼, NE¼NW¼.

T. 21 N., R. 2 W.,
Secs. 4 to 8, inclusive;
Secs. 17 to 19, inclusive;
Sec. 30.

T. 21 N., R. 3 W.,
Secs. 1 to 36, inclusive.

T. 21 N., R. 5 W.,
Secs. 1 to 36, inclusive.

T. 21 N., R. 6 W.,
Secs. 1 to 36, inclusive.

T. 21 N., R. 7 W.,
Secs. 1 to 36, inclusive.

T. 21 N., R. 8 W.,
Secs. 1 to 25, inclusive;
Sec. 26, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 27, S½SW¼, SW¼SE¼;
Sec. 28, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
Secs. 29 and 30;
Sec. 31, N½NE¼;
Sec. 32, NE¼, N½NW¼, SE¼NW¼;
Sec. 33, N½, SE¼;
Sec. 34, NW¼NE¼, W½, S½SE¼;
Sec. 35, E½, S½SW¼;
Sec. 36.

T. 21 N., R. 9 W.,
Secs. 1 and 2;
Sec. 3, lots 1 to 4, inclusive, S½N½, SE¼;
Sec. 4, lots 1 to 4, inclusive, S½N½, SW¼, NW¼SE¼;
Sec. 5;
Sec. 6, lots 1 to 5, inclusive, S½NE¼, SE¼NW¼, N½SE¼;
Sec. 8, N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 9 to 15, inclusive;
Sec. 16, E½E½;
Sec. 23, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 24;
Sec. 25, NE½, NE¼SW¼, SE¼.

T. 21 N., R. 10 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½.

T. 22 N., R. 6 W.,
Secs. 1 to 36, inclusive.

T. 22 N., R. 7 W.,
Secs. 1 to 36, inclusive.

T. 22 N., R. 8 W.,
Secs. 1 to 36, inclusive.

T. 22 N., R. 9 W.,
Secs. 1 to 18, inclusive;
Sec. 19, lot 1, E½, E½W½;
Secs. 20 to 27, inclusive;
Sec. 28, E½, NW¼, N½SW¼, SE¼SW¼;
Sec. 29, N½, SW¼, N½SE¼;
Sec. 30, lots 2 to 4, inclusive, E½, E½W½;
Sec. 31;
Sec. 32, N½NW¼, SW¼NW¼, W½SW¼, SE¼SW¼, S½SE¼;
Sec. 33, E½, E½W½, SW¼SW¼;
Secs. 34 to 36, inclusive.

T. 22 N., R. 10 W.,
Secs. 1 to 6, inclusive;
Sec. 7, E½;
Secs. 8 to 17, inclusive;
Sec. 18, lot 4, E½, SE¼SW¼;
Sec. 19, lots 1 to 4, inclusive, SE¼NE¼, NW¼NE¼, E½NW¼, SE¼SW¼, S½SE¼, NE¼SE¼;
Sec. 20, NE¼, N½NW¼, SW¼NW¼, S½;
Sec. 21, N½, N½SW¼, SW¼SW¼, E½SE¼;
Secs. 22 and 23;
Sec. 24, N½NE¼, W¼;
Sec. 25, S½NE¼, W½, SE¼;
Secs. 26 and 27;
Sec. 28, N½NE¼, SE¼NE¼, NW¼;
Sec. 29, NE¼, NE¼NW¼, N½SE¼;
Sec. 30, lot 1, NW¼NE¼, NE¼NW¼;
Sec. 34, N½N½;
Sec. 35, NW¼NW¼;
Sec. 36, E½, NE¼NW¼, SE¼SW¼.

T. 22 N., R. 11 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½;
Sec. 2, lots 1 to 4, inclusive;
Sec. 4, lots 1 to 4, inclusive, S½N½, SW¼, W½SE¼;
Sec. 5;
Sec. 6, lots 8 to 17, inclusive;
Sec. 9, W½NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 10, SW¼, W½SE¼;
Sec. 11, S½SE¼;
Sec. 13, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 14, NE¼, S½NW¼, N½S½;
Sec. 15, NW¼NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 24, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼.

T. 22 N., R. 12 W.,
Sec. 1, lots 1 to 4, inclusive;
Sec. 2, lot 2;
Sec. 3, S½NE¼;
Sec. 4, lot 4, S½NW¼, NE¼SW¼;
Sec. 5, lots 1 to 4, inclusive, S½NE¼, SE¼NW¼.

T. 23 N., R. 1 W.,

Sec. 3;
Sec. 4, lots 1 and 2, S½NE¼, S½;
Sec. 5, SE¼;
Sec. 8, E½;
Secs. 9, 10, and 16;
Sec. 17, E½, S½NW¼, SW¼;
Sec. 18, S½NE¼, SE¼;
Secs. 19 and 20;
Secs. 29 to 31, inclusive.
T. 23 N., R. 6 W.,
Secs. 23 to 27, inclusive;
Secs. 33 to 36, inclusive.
T. 24 N., R. 1 W.,
Sec. 26, E½, SW¼;
Sec. 27, S½;
Sec. 33, SE¼;
Secs. 34 and 35.
T. 24 N., R. 6 W.,
Sec. 7, lots 3 and 4, E½SW¼;
Sec. 17, S½;
Sec. 18;
Sec. 19, lots 1 and 2, NE¼, E½NW¼.
T. 24 N., R. 7 W.,
Sec. 12, SE¼;
Sec. 13, NE¼.
T. 24 N., R. 8 W.,
Sec. 26, S½S½;
Sec. 27, S½S½;
Secs. 33 to 35, inclusive.
T. 25 N., R. 1 W.,
Secs. 3, 10, 15, 22, and 23;
Sec. 26, NE¼.

The area classified totals 336,177 acres (136,050 ha), more or less, of which 7,619 acres (3,083 ha) are coal land, and 328,558 acres (132,967 ha) which were formerly classified as non-coal are reclassified as coal land.

Dated: August 24, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-24514 Filed 8-30-78; 8:45 am]

[4310-70]

National Park Service

OZARK NATIONAL SCENIC RIVERWAYS ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Pub. L. 99-463 that a meeting of the Ozark National Scenic Riverways Advisory Commission will be held on Friday, September 29, 1978, at 10 a.m. (CDT) at the Riverways' Headquarters on U.S. Highway 60 in Van Buren, Mo.

The Commission was established by Pub. L. 88-429 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Ozark National Scenic Riverways.

The members of the Commission are:

Dr. Oscar Hawksley, Warrensburg, Mo. (Chairman)
Mr. Kirby Hart, Houston, Mo.
Mr. James A. Roark, Hunter, Mo.
Mr. Carlton E. Bay, Salem, Mo.
Mr. Edward Hodge, Eminence, Mo.
Mr. William Hall, Kansas City, Mo.
Mr. Henry Luepke, Jr., St. Louis, Mo.

Matters to be discussed at this meeting include:

1. Status—General Development Planning (Report on Resources Management Plan, Visitor Use Plan, etc.).
2. Interpretation (Restoration of Alley Mill, Traveler Information Stations).
3. Research (Fisheries Management, endangered species, reintroduction of extirpated species).
4. Land acquisition.
5. Ozark Trail.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Arthur L. Sullivan, Superintendent, Ozark National Scenic Riverways, P.O. Box 490, Van Buren, Mo. 63965, telephone 314-323-4236. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at Ozark National Scenic Riverways headquarters in Van Buren, Mo.

Dated: August 22, 1978.

MERRILL D. BEAL,
Regional Director,
Midwest Region.

[FR Doc. 78-24488 Filed 8-30-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[AA1921-Inq-20, AA1921-Inq-21, and AA1921-Inq-22]

SUGAR FROM BELGIUM, FRANCE, AND WEST GERMANY

Notice of Inquiries and Hearing

The U.S. International Trade Commission (Commission) received advice from the Department of Treasury (Treasury) on August 18, 1978, that during the course of determining whether to institute an investigation with respect to sugar provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States from Belgium, France, and West Germany in accordance with section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)), Treasury had concluded from the information developed during its preliminary investigation that there is substantial doubt that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States. Therefore, the Commission on August 24, 1978, instituted inquiries AA1921-Inq-20, AA191-Inq-21, and AA1921-Inq-22, under section 201(c)(2) of that act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Treasury's advice to the Commission was published in the FEDERAL REGISTER on August 18, 1978 (43 FR 36746).

Public hearing. A public hearing in connection with the inquiries will be held in Washington, D.C., on Wednesday, September 6, 1978, at 10:30 a.m., e.d.t. The hearing will be held in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received in writing in the office of the Secretary of the Commission not later than noon Wednesday, August 30, 1978.

Written statements. Interested parites may submit statements in writing in lieu of, and in addition to appearance at the public hearing. A signed original and 19 true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received not later than September 6, 1978.

By order of the Commission:

Issued: August 25, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-24439 Filed 8-30-78; 8:45 am]

[7020-02]

UNALLOYED UNWROUGHT COPPER

Report to the President

AUGUST 23, 1978.

To the President: In accordance with section 201(d)(1) of the Trade Act of 1974 (19 U.S.C. 2251(d)(1), 88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation relating to unalloyed unwrought copper.

The investigation to which this report relates (No. TA-201-32) was undertaken to determine whether unwrought copper, other than alloyed, provided for in item 612.06 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission instituted the investigation under the authority of section 201(b)(1) of the Trade Act on March 17, 1978, following receipt on

February 23, 1978, of a petition filed by the Anaconda Co., Asarco, Inc., Cities Service Co. (Minerals Group), Copper Range Co., Cyprus Mines Corp., Duval Corp., Hecla Mining Co., Inspiration Consolidated Copper Co., Kennecott Copper Corp., Magma Copper Co., Phelps Dodge Corp., and Ranchers Exploration and Development Corp.

Notice of the investigation and hearing were duly given by publishing the original notice in the FEDERAL REGISTER of March 23, 1978 (43 FR 12130). Announcement of the time and place of the public hearing was subsequently published in the FEDERAL REGISTER of April 7, 1978 (43 FR 14748).

A public hearing in connection with the investigation was held in Tucson, Ariz., on May 22-24, 1978. All interested persons were afforded the opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic manufacturers, importers, and consumers, and from the Commission's files, other government agencies, and information presented at the hearing and in briefs filed by interested parties.

DETERMINATION, FINDING, AND RECOMMENDATION OF THE COMMISSION

DETERMINATION

On the basis of its investigation, the Commission[1] determines that unwrought copper, other than alloyed, provided for in item 612.06 of the Tariff Schedules of the United States (TSUS), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof,[2] to the domestic industry producing an article like or directly competitive with the imported article.

FINDING AND RECOMMENDATION

The Commission[3] finds and recommends that, to remedy the serious injury found to exist, it is necessary to impose quantitative restrictions on imports of unwrought copper, other than alloyed, provided for in item 612.06 of the TSUS, in the amount of 300,000 short tons per year for the 5-year period beginning January 1, 1978, with no more than 25 percent of such annual amount to be entered, or withdrawn from warehouse, for consumption within any calendar quarter.

By Order of the Commission:

Issued: August 25, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-24440 Filed 8-30-78; 8:45 am]

[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[1] Commissioner Ablondi dissenting, Commissioner Moore not participating.

[2] Commissioner Minchew finds serious injury only.

[3] Commissioners Moore and Ablondi not participating.

[7020-02]

CERTAIN CATTLE WHIPS

[Investigation No. 337-TA-57]

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: August 25, 1978.

DONALD K. DUVALL,
Chief Administrative Law Judge.

[FR Doc. 78-24632 Filed 8-30-78; 8:45 am]

[7020-02]

CERTAIN MACHINE NEEDLES

[TA-201-38]

Investigation and Hearing

Investigation instituted. Following receipt of a petition on August 7, 1978, filed on behalf of The Torrington Co., Torrington, Conn., the U.S. International Trade Commission on August 25, 1978, instituted an investigation under section 201(b) of the Trade Act of 1974, to determine whether needles for machines for making nonwoven or nonknit fabrics; needles for knitting, embroidery, and other textile machines; and needles for sewing machines, except sewing machines designed for household use, provided for in items 670.35, 670.58, 670.60, 670.62, 670.64, 670.74, and 672.20 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Public hearing ordered. A public hearing in connection with this investigation will be held in Washington, D.C., at 10 a.m., e.s.t., on Monday, November 20, 1978, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington not later than noon, Wednesday, November 15, 1978.

There will be a prehearing conference in connection with this investigation which will be held in Washington, D.C., at 10 a.m., e.s.t., on Wednesday, November 15, 1978, in Room 117, U.S. International Trae Commission Building, 701 E Street NW.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission, and at the New York City office of the U.S. International Trade Commission, located at 6 World Trade Center.

Issued: August 28, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-24631 Filed 8-30-78; 8:45 am]

[7020-02]

[AA1921-Inq.-17]

STAINLESS STEEL ROUND WIRE FROM JAPAN

Commission Determines a Reasonable Indication of Injury

AUGUST 25, 1978.

On July 26, 1978, the U.S. International Trade Commission received advice from the Treasury Department that, in accordance with section 201(c)(1) of the Antidumping Act, 1921, as amended, an antidumping investigation was being initiated with respect to stainless steel round wire from Japan, and that, pursuant to section 201(c)(2) of the act, information developed during Treasury's preliminary investigation led to the conclusion that there is substantial doubt whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Accordingly, the Commission, on August 1, 1978, instituted inquiry No. AA1921-Inq.-17 under section 201(c)(2) of the act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

On the basis of information developed during the course of the inquiry the Commission (Chairman Joseph O. Parker and Commissioner Daniel Min-

chew not participating) unanimously determines that there is a reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of stainless steel round wire from Japan, allegedly sold at less than fair value, as indicated by the Department of the Treasury.

The Treasury Department instituted its investigation after receiving a complaint on July 14, 1978, filed by counsel on behalf of 15 U.S. firms which produce stainless steel round wire. Treasury's notice of its antidumping proceeding was published in the FEDERAL REGISTER of July 28, 1978 (43 FR 32914).

A public hearing was held on August 17, 1978, in Washington, D.C. Notice of the institution of the inquiry and hearing was duly given by posting copies of the notice at the Secretary's office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the FEDERAL REGISTER of August 4, 1978 (43 FR 34546).

STATEMENT OF REASONS OF COMMISSIONERS GEORGE M. MOORE, CATHERINE BEDELL, AND ITALO H. ABLONDI

On July 26, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that during the course of the preliminary antidumping investigation with respect to stainless steel round wire from Japan, Treasury had concluded from the information available to it "that there is substantial doubt that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of this merchandise into the United States." Acting on this advice the Commission, on August 1, 1978, instituted inquiry No. AA1921-Inq.-17 (stainless steel round wire from Japan) under section 201(c)(2) of the Antidumping Act, 1921, as amended, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] by reason of the importation or such merchandise into the United States.

DETERMINATION

On the basis of information developed during the course of this inquiry we determine that the standards set forth in section 201(c)(2) of the Antidumping Act, 1921, as amended for continuing the investigation have been met.

THE DOMESTIC INDUSTRY

In this inquiry, we consider the relevant domestic industry to consist of the facilities in the United States used in the production of stainless steel round wire. Approximately 50 firms producted this type of wire in the United States in 1977.

DISCUSSION

The Department of the Treasury advised the Commission that the petitioners had alleged margins of sales at less than fair value on imports of stainless steel round wire from Japan of as much as 65 percent. Imports of this wire from Japan have been large, accounting for almost 13 percent of U.S. consumption during 1972-77. During January-June 1978 these imports were at a record high annual rate of 34 million pounds.

U.S. producers' prices for representative items of stainless steel round wire were relatively unchanged during 1976-77 and January-June 1978, a period of rapidly rising production costs. Throughout this period, the prices of selected items of wire imported from Japan undersold comparable items of domestically produced wire by margins of between 41 and 9 percent. The availability of large quantities of Japanese wire at a substantial price advantage has tended to suppress domestic producers' prices. In addition, U.S. producers reported 24 instances where they had lost sales of stainless steel round wire to imports from Japan during January-June 1978. The Commission confirmed that in 12 of these instances, involving sales of approximately 1 million pounds of wire, the U.S. producers had lost sales as a result of their customers buying stainless steel wire imported from Japan.

Six of nine U.S. firms which provided the Commission with profit and loss data reported losses on their stainless steel round wire operations in 1976, and four firms reported losses on these operations in 1977 and January-June 1978. Furthermore, the ratio of U.S. producers' net operating profit to net sales declined sharply in recession year 1975 to about 8 percent and remained unchanged at this same level in 1976-77 and January-June 1978.

Thus, despite increases in U.S. consumption, production, and shipments of stainless steel round wire during 1976, 1977, and January-June 1978, U.S. producers' prices for stainless steel wire and the profits of their stainless steel round wire operations remain at or below the levels reported in recession year 1975.

CONCLUSION

We therefore conclude that there is a reasonable indication of injury or the likelihood of injury to the domestic industry producing stainless steel round wire by reason of alleged LTFV imports from Japan.

STATEMENT OF REASONS OF VICE CHAIRMAN BILL ALBERGER

STATUTORY CRITERIA OF SECTION 201(c)(2)

If the Secretary of the Treasury concludes, during a preliminary investigation under the Antidumping Act of 1921, as amended, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the U.S. International Trade Commission (Commission) his reasons for such doubt. Within 30 days of receipt of the Secretary's reasons, the Commission shall determine whether there is a reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[2] by reason of the importation of merchandise allegedly sold in the United States at less than fair value (LTFV). This inquiry, instituted on August 1, 1978, concerns stainless steel round wire from Japan.

DETERMINATION

On the basis of information developed during the course of this inquiry, I determine that there is a reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of stainless steel round wire into the United States from Japan allegedly sold at less than fair value as indicated by the Department of the Treasury (Treasury).

THE DOMESTIC INDUSTRY

In this inquiry, I consider the relevant domestic industry to consist of the facilities in the United States used in the production of stainless steel round wire. Such facilities are operated by three types of firms—integrated steel producers, independent wire drawers, and end product manufacturers. Approximately 50 firms produced this type of wire in the United States in 1977.

INFORMATION REGARDING ALLEGED MARGINS OF LTFV SALES

Treasury advised the Commission that the petitioner alleged margins of LTFV sales of as much as 65 percent.

A REASONABLE INDICATION OF INJURY

Imports from Japan—Imports from Japan were at a record high level in 1977 when they increased by 42 percent over the quantity imported in 1976. January-June 1978 statistics show that imports from Japan have increased by 2 percent over the corresponding period in 1977 and at that rate would represent 14 percent of total U.S. consumption.

U.S. production and shipments—1977 was the highest level of production and shipments in the past 3 years and the January-June 1978 figures, if annualized, indicate 1978 levels will be up even further. These increases reflect increased consumption in the U.S. market to levels that will be near the peak year, 1974, if the January-June 1978 rate of consumption is maintained over the last half of the year.

Capacity utilization—Data obtained by the Commission indicates that capacity utilization rates for January-June 1978, at 85 percent, are at the highest levels since 1974. In 1975, the rates took a sharp drop and have since climbed steadily upward.

Employment—In 1978, the number of workers engaged in the production of stainless steel round wire was at its highest level for the past four years. After taking a downward slide in 1975, it has moved upward at a relatively steady rate in each of the last 3 years.

Profitability—The net operating profit to net sales ratio for stainless steel round wire operations peaked in 1974 at a level of 12 percent. With the economic downturn in 1975, profits dipped to slightly above 8 percent and have remained around that level since that time. Of the nine firms furnishing the Commission with profit and loss data, six reported losses in 1976, and four showed losses in 1977 and the first half of 1978.

Prices—From 1976 through June 1978, a time of rapidly increasing production costs, producers' prices for stainless steel round

[1] Prevention of establishment of an industry in this inquiry is not in question and will not be discussed further in this statement.

[2] Prevention of establishment of an industry in this inquiry is not in question and will not be discussed further in this statement.

wire have remained virtually unchanged. During this period, the prices of representative items of Japanese wire undersold comparable U.S. wire by margins ranging from 9 to 41 percent. This price advantage, combined with the ready availability of Japanese wire for the U.S. market, appears to have worked as a depressant on U.S. prices and has had a corresponding effect on the domestic producers' profit picture.

Lost sales—Of attempts to check on 24 allegations of sales lost to imports, 12 were verified as having been lost to Japanese producers of stainless steel round wire and four were traced to countries other than Japan.

CONCLUSION

As I have stated previously, 30-day investigations require that the Commission need only find a reasonable indication of injury. The data gathered in this inquiry point to growing U.S. consumption, production, shipments, employment and capacity utilization from 1976 forward. Imports from Japan are increasing, and the penetration level is significant. Profits for the total industry are at reasonable levels, but most of the firms responding to our questionnaire are in bad shape financially. Prices have shown little growth since 1975 in the face of rising production costs, thereby suggesting the possibility of price suppression. Finally, there are 12 verified instances of lost sales.

The indices the Commission must consider point both ways based on our preliminary data, but on balance I believe there is sufficient concern about the health of the industry to constitute a "* * * reasonable indication that an industry in the United States is being or is likely to be injured * * * by reason of importation of stainless steel round wire into the United States from Japan."

Issued August 28, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-24634 Filed 8-30-78; 8:45 am]

[7020-02]

[AA1921-182]

STEEL WIRE STRAND FOR PRESTRESSED CONCRETE FROM INDIA

Determination of No Injury

AUGUST 25, 1978.

On May 25, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that steel wire strand for prestressed concrete from India is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 2, 1978, the Commission instituted investigation No. AA1921-182 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the FEDERAL REGISTER of June 8, 1978 (43 FR 24915). On July 18, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

On the basis of its investigation, the Commission has unanimously determined (Commissioner Minchew not participating) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of steel wire strand for prestressed concrete from India that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

STATEMENT OF REASONS OF VICE CHAIRMAN BILL ALBERGER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL [1]

In order for the U.S. International Trade Commission to find in the affirmative in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established [2] and the injury or likelihood thereof must be by reason of imports at less than fair value (LTFV).

DETERMINATION

On the basis of the information obtained in the investigation, we determine that an industry in the United States is not being and is not likely to be injured by reason of the importation of steel wire strand for prestressed concrete from India, which the Department of the Treasury (Treasury) has determined is being, or is likely to be, sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Steel wire strand for prestressed concrete includes all steel wire strand, other than alloy steel, which has been stress-relieved and is suitable for use in prestressing concrete. Prestressed concrete is widely used in the construction of bridge girders, beams, pilings, railroad ties, and a variety of building products such as columns, roofs, and floors. In this determination, we considered the relevant domestic industry to consist of the facilities in the United States devoted to the production of steel wire strand for prestressed concrete. Six U.S. firms currently produce steel wire strand for prestressed concrete.

NO INJURY OR LIKELIHOOD OF INJURY BY REASON OF LTFV SALES FROM INDIA

After examining the annual import quantities, market penetration data, and relevant pricing practices, we find no causal connection between LTFV imports of steel wire strand from India and injury—present or threatened—to the domestic steel wire strand industry. In our opinion, it is unnecessary to determine whether or not the domestic industry is, in fact, being injured; for even if injury does exist, subject imports from India cannot be the cause of such injury. The question of injury may be considered in, AA1921-188, *Steel Wire Strand for Prestressed Concrete from Japan* [3]—a pending case in which larger import quantities, more significant market penetration, and relevant pricing practices appear to warrant a closer look at injury. The Commission was advised by Treasury on August 22, 1978, of Treasury's final determination of LTFV sales of steel wire strand for prestressed concrete from Japan.[4]

Imports of steel wire strand from India have been insignificant. Imports from India increased from 420,000 pounds in 1974, to 4.1 million pounds in 1976, then fell to 2.4 million pounds in 1977, and fell further to only 46,000 pounds in January to March 1978. During this period imports of steel wire strand from India accounted for less than 1 percent of apparent consumption in every year except 1976—accounting for 0.1 percent in 1974, 0.4 percent in 1975, 0.8 percent in 1977, and 0.04 percent during the first quarter of 1978. In 1976 (the peak year for imports of steel wire strand from India) Indian strand still accounted for only 1.8 percent of apparent consumption.

This is not to argue, however, that small import quantities and low rates of market penetration are necessarily sufficient criteria, in and of themselves, for finding no causal connection between imports and injury. Equally important in this case is a consideration of the pricing activity associated with Indian strand.

Pricing information developed during the Commission's investigation indicates that the price of wire strand from India declined sharply during 1975 and the first 6 months of 1976 to as much as 20-percent below the

---

[1] Commissioner Italo H. Ablondi concurs in the result.

[2] Prevention of establishment of an industry is not an issue in this investigation and will not be discussed further.

[3] Vice Chairman Bill Alberger states that in his opinion if the Japanese and Indian cases had been before the Commission concurrently, he would not, in the event he were finding against Japan, cumulate with respect to India. He believes cumulation would be inappropriate since imports from India are not a contributing cause of any injury which might be found to exist. He adds, however, that this does not imply that he will find against imports from Japan. That case will be judged on its own merits.

[4] Commissioner George M. Moore states that in his opinion under section 201(a) of the Antidumping Act, the International Trade Commission is at the mercy of the Department of the Treasury in the sense that it cannot consider the cumulative effect of less than fair value imports from 2 countries in 2 pending cases received from the Department on different dates unless both cases can be given full consideration and finally disposed of by the Commission before the earlier of the 2 statutory deadlines.

price of U.S. produced strand. The principal importer was apparently testing the market with a new product of less than standard length (12,000 foot lengths) from a new supplier. About one-half of the domestic customers for this wire strand from India were one time trial order purchasers, and that importer testified that he has received no new orders since mid-1977. The pricing practices thus constituted a temporary aberration in the market, and the impact was clearly not of a magnitude sufficient to cause injury to the domestic industry.[5]

During the Commission's investigation, the specific instances of domestic purchases of wire strand from India alleged by petitioners to be lost sales were examined. It was not established, however, that these sales were lost by domestic producers. Sales of imports from India largely displaced imports from other countries, principally Japan, and did not result in lost sales to the domestic industry. U.S. producers' shipments actually increased (from 74.1 million pounds in 1975 to 81.3 million pounds in 1976) during the same period in which subject imports from India rose to their peak level.

Furthermore, there is no likelihood of injury to the domestic industry producing steel wire strand for prestressed concrete by reason of LTFV imports from India. India's capacity to serve the U.S. market appears to be so limited as to preclude any threat of injury to domestic producers. During the peak year for Indian strand imports, India's share of the domestic market was only 1.8 percent.

CONCLUSION

On the basis of the information obtained in the Commission's investigation, we conclude that an industry in the United States is not being and is not likely to be injured by reason of the importation of steel wire strand for prestressed concrete from India sold at LTFV within the meaning of the Antidumping Act of 1921, as amended.

STATEMENT OF REASONS OF CHAIRMAN JOSEPH O. PARKER

On May 25, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that steel wire strand from India, other than alloy steel, stress-relieved and suitable for use in prestressed concrete, is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. Accordingly, on June 2, 1978, the Commission instituted investigation No. AA1921-182 under section 201(a) of the Antidumping Act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

DETERMINATION

On the basis of the information obtained in the investigation, I determine that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of steel wire strand from India, which the Department of the Treasury has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act.

THE PRODUCT

Steel wire strand includes all steel wire strand, other than alloy steel, which has been stress-relieved and is suitable for use in prestressed concrete. Steel wire strand consists of one center wire and six helically placed outerwires. The strand is available in two grades, 250 and 270, the latter being the strongest.

Steel wire strand is used to compare concrete to provide resistance to loads. Prestressed concrete is used to build engineered stresses into architectural and structural concrete units which will more than offset the stresses that occur when the unit is subjected to loads. Prestressed concrete is now widely used in the construction of bridge girders, beams, pilings, railroad ties, and a variety of building products such as columns, roofs, and floors. Six U.S. firms currently produce steel wire strand for prestressed concrete.

NO INJURY OR LIKELIHOOD OF INJURY BY REASON OF IMPORTS FROM INDIA

During the period from 1974 to the present, wire strand from India has accounted for a minor share of U.S. consumption and imports. From 1974 to 1977, imports from India accounted for less than 1 percent of apparent U.S. consumption in every year except 1976. In that year, imports from India represented 1.8 percent of apparent consumption. The share of the domestic market accounted for by imports from India fell to 0.8 percent in 1977 and further declined to 0.04 percent during January-March 1978. During each year of the period 1974-77, total imports from all countries accounted for approximately 65 percent or more of apparent domestic consumption.

Pricing information developed during the Commission's investigation indicates that the prices of U.S.-made and imported wire strand declined during 1975 and January-June 1976. However, testimony received at the Commission's public hearing indicates that the price of wire stand from India was reduced by the principal importer as a means of introducing this product and attempting to gain entry into the U.S. market. At that time, the major exporter of wire strand from India did not produce wire strand in standard U.S. 12,000-foot lengths. Testimony received by the Commission indicates that approximately one-half of the domestic customers for the wire strand from India were one-time trial-order purchasers, and that the principal importer of wire strand from India has received no new orders since mid-1977.

During the Commission's investigation, the specific instances of domestic purchases of wire strand from India alleged by petitioners to be lost sales were examined. It was not established, however, that these sales were lost by domestic producers. Each of the purchasers also purchased large quantitites of the wire product from other sources. The evidence indicates that imports from India may have had more impact on imports from other countries by displacing their market share. U.S. producers' shipments of wire strand increased in 1976, when imports from India were greatest, while imports from sources other than India declined.

There is no indication of likelihood of injury to the domestic industry by reason of sales of wire strand from India at less than fair value. India's capacity to supply the U.S. market is limited and does not appear to pose any threat of injury to the U.S. industry. Imports of wire strand from India declined during 1977; in January-March 1978, they accounted for only 0.04 percent of domestic consumption.

CONCLUSION

On the basis of the information obtained in the Commission's investigation, I determine that an industry in the United States is not being and is not likely to be injured by reason of the importation of steel wire strand for prestressed concrete from India which the Department of Treasury has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

Issued: August 28, 1978.

By order of the Commission,

KENNETH R. MASON,
Secretary.

[FR Doc. 78-24633 Filed 8-30-78; 8:45 am]

[5] Vice Chairman Alberger additionally points out that Indian steel wire strand is not a price leader among LTFV imports. He cites testimony showing that a rise in the price of Japanese imports would probably have precipitated a corresponding rise in Indian prices. (See the transcript of the public hearing at page 79, line 12 and particularly page 83, line 7 for discussion of the absence of Indian price leadership.)

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Meeting

This is to provide notice of meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ).

The National Minority Advisory Council will hold its regular quarterly meeting on September 22 and 23, 1978. The meeting will be held in the 13th Floor Conference Room of the Law Enforcement Assistance Administration (LEAA), 633 Indiana Avenue NW., Washington, D.C. 20531. The meeting is scheduled to run from noon until 6 p.m. on the 22d and from 9 a.m. until 3 p.m. on the 23rd. The two sessions will center on review of the Council's final report on the national needs assessment of minorities and their relationship with the criminal justice system. The meeting is open to the public.

Anyone wishing additional information should contact Frank de la Fe, Project Monitor, 633 Indiana Avenue

NW., Washington, D.C. 20531, telephone number 202-376-3868.

FRANK DE LA FE,
Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 78-24515 Filed 8-30-78; 8:45 am]

[4410-10]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

STUDY OF COMPLEX ANTITRUST LITIGATION AND ANTITRUST IMMUNITIES (AIR TRANSPORTATION, STATE ACTION, AND AGRICULTURE)

Public Hearing

Notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures (hereinafter "the Commission") in accordance with Executive Order 12022 and section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), will hold public hearings on September 12, 1978 beginning at 10 a.m. and on September 13 and 14, 1978 beginning at 9 a.m. These hearings will be held in room 2141 of the Rayburn House Office Building, Independence Avenue and South Capitol Street SW., Washington, D.C.

The purpose of these hearings is to receive testimony relevant to the Commission's study of complex antitrust litigation and antitrust immunities (including those afforded air transportation, State action and agriculture), as set forth in Executive Order 12022 and as discussed at the Commission's meeting on August 15, 1978.

The views of interested persons are solicited and the public is invited to make written submission to the Commission on the foregoing subjects. Submissions should be sent to the Commission office (Attention: Ms. Deana Harvell), room 7315, Department of Justice Building, 10th Street and Pennsylvania Avenue NW., Washington, D.C. 20530. Those who wish their submissions to be available to the Commissioners for consideration prior to these hearings should submit 50 copies to be received no later than September 6, 1978.

Dated: August 28, 1978.

TIMOTHY G. SMITH,
Staff Director.

[FR Doc. 78-24695 Filed 8-30-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HUMANITIES PANEL—ADVISORTY COMMITTEE

AUGUST 3, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on September 15, 1978.

The purpose of the meeting is to review NEH Summer Seminar applications in Drama, Film, and Speech submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-24517 Filed 8-30-78; 8:45 am]

[7536-01]

HUMANITIES PANEL—ADVISORY COMMITTEE

Meeting

AUGUST 3, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 807, from 9 a.m. to 5:30 p.m. on September 15, 1978.

The purpose of the meeting is to review NEH Summer Seminar applications in Philosophy submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clerly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Mangement Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-24518 Filed 8-30-78; 8:45 am]

[7536-01]

HUMANITIES PANEL—ADVISORY COMMITTEE

Meeting

AUGUST 3, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on September 20, 1978.

The purpose of the meeting is to review NEH Summer Seminar applications in German submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-24519 Filed 8-30-78; 8:45 am]

[7536-01]

HUMANITIES PANEL—ADVISORY COMMITTEE

Meeting

AUGUST 3, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on September 21, 1978.

The purpose of the meeting is to review NEH Summer Seminar applications in English and American Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-24520 Filed 8-30-78; 8:45 am]

[7536-01]

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

AUGUST 3, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on September 22, 1978.

The purpose of the meeting is to review NEH summer seminar applications in history submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-24521 Filed 8-30-78; 8:45 am]

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

AUGUST 24, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130 from 9 a.m. to 5:30 p.m. on September 25.

The purpose of the meeting is to review NEH Division of State programs applications submitted to the National Endowment for the Humanities for projects beginning after November 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-24522 Filed 8-30-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

STATEMENT ON STANDARDIZATION OF NUCLEAR POWER PLANTS

The initial statement of the Atomic Energy Commission (AEC) on standardization of nuclear power plants was issued in April 1972. In March 1973, the AEC announced the staff's readiness to implement the standardization policy utilizing three distinct concepts; namely, the manufacturing license concept, the duplicate plant concept, and the reference system concept. In August 1974, the AEC announced that the replicate plant concept would be acceptable as a transitional step toward standardization. The AEC was abolished and its regulatory responsibilities assigned to the newly formed Nuclear Regulatory Commission (the Commission) on January 19, 1975. On June 29, 1977, the Commission issued a statement that reaffirmed its support of standardization and requested comments and suggestions on proposed new guidance developed by the staff and on other steps that the Commission might undertake to further encourage standardization. The statement, which was published in the FEDERAL REGISTER on July 5, 1977, also noted staff plans to use such comments and suggestions in its continuing study of standardization.

On the basis of its study, the staff has concluded that certain changes to the Commission's standardization program should be implemented, and that these changes can be implemented within existing regulations. The staff has further concluded that the program, as changed, will continue to allow applicants to utilize a variety of design options in ways that can avoid the development of significant adverse antitrust consequences. The Commission continues to recognize its responsibility to provide a standardization program that can be used effectively without contributing to such concerns. The standardization program has been guided by this principle from its inception and it is our intent that this should continue. The staff discussed the revised standardization program with the Department of Justice. While the Department of Justice did not conduct an independent evaluation, which in its opinion would be unnecessarily duplicative, it did review the results of the staff's efforts. That review did not identify any antitrust concerns inherent in the revised standardization program beyond those perceived by the staff. However, the potential exists that improper utilization of the standardization program by applicants may lead to these antitrust concerns. Accordingly, the staff will monitor the

standardization program to assure that each applicant properly considers antitrust matters in developing or using standard designs. The staff will take appropriate action if it detects the development of a situation that appears to have the potential for creating problems of an antitrust nature.

The staff has prepared a report of its study; the report provides a summary of the information used in the study, presents the public comments received in response to the Commission's prior statement, and presents the staff's assessment of this information in support of its conclusions and recommendations. The Commission has reviewed these recommendations with the staff. The specific actions to be taken by the staff are described in the following discussion.

Reference System Concept

The reference system concept involves the approval of a standard design for most of a nuclear plant or a major fraction of a nuclear plant outside of the context of an application for a construction permit or operating license. Approval by the staff is granted to a designer in the form of a preliminary design approval (PDA) or a final design approval (FDA). Twelve preliminary design approvals have been issued to date and 5 of the approved designs have been referenced in 11 construction permit applications. Staff approvals of such designs do not constitute Commission approval. Each utility application referencing a PDA must be subjected to a public hearing process prior to the award of a construction permit. No application for an FDA has yet been received. The Commission's policy statement of June 29, 1977, described two types of final design approvals then being considered by the staff; one was an FDA-1 which could be referenced only in operating license applications for plants whose construction permit applications referenced the corresponding PDA, and the other was an FDA-2 which could be referenced in applications for construction permits or combined construction permits and final design approvals for purposes of issuance of operating licenses.

Preliminary Design Approvals

To date, preliminary design approvals for nuclear island designs and for nuclear steam supply system designs have been issued for a period of 3-years; preliminary · design approvals for balance of plant designs have been issued for a period of 3 years from the earlier date of the approval of the mating nuclear steam supply system design. These periods were selected considering the number of plant license applications anticipated at the time, the experience of changes in safety requirements that were then occurring with time, and the newness of the concept. Experience has shown the effectiveness of the preliminary design approval in construction permit application reviews. However, it is now apparent that, because of the prevailing depressed market for nuclear plants, the 3 year period of effectiveness used to date for the PDA limits the ability of an architect-engineer to develop balance of plant designs to mate with approved nuclear steam supply system designs well before the latter terminate, and thus obtain a reasonable return on investment by use of its designs in one or more plants. Considering these factors, the current low order rate for nuclear plants, which effectively reduces the number of units likely to use a specific standard design, and the significantly increased stability in licensing requirements obtained through use of the standard review plan (issued in November 1975) and the review of proposed changes in staff safety requirements by the Regulatory Requirements Review Committee (established in early 1974), the staff will increase the effective period of preliminary design approvals issued in the future from 3 to 5 years.

All preliminary design approvals issued to date for balance of plant designs are set to terminate 3 years after issuance of the earlier PDA for the mating nuclear steam supply system even if this results in a relatively short lifetime for the balance of plant PDA. The staff now views this requirement to be an unnecessary penalty on balance of plant designers. Accordingly, the staff will extend the period of each PDA already issued for a balance of plant design to 3 years from the date of its issuance, and will make each PDA for a balance of plant design issued in the future effective for a period of 5 years. If the PDA for the nuclear steam supply system has expired, the staff will still permit the mating standard balance of plant design to be referenced in a construction permit application will treat it as an approved standard design, provided that the application includes the information needed to update the nuclear steam supply system design which will be treated as a custom design. Even though there will likely be some attendant delay in review time because of the reversal in the normal staff review routine, the staff considers this to be a practical procedure. However, the staff is not yet convinced that a PDA can be issued for a balance of plant design without prior or simultaneous issuance of a PDA for the nuclear steam supply system design to which the balance of plant design is mated. The possibility for acceptance of such a procedure in the future will be included in the staff's continuing study.

The staff will grant each current PDA-holder the opportunity to have the period of the PDA extended from the present 3-year term to a 5-year term. Staff approval of a design is based on a selected regulatory requirements cutoff date, which is a date near the end of the staff's safety review, after which the staff will not impose new requirements on the design unless they are essential to safety. This cutoff date is needed in order to permit a designer to complete the design for approval purposes. The application for extension of a PDA will need to provide the following information, related to four categories of safety significant requirements, established by the staff since the regulatory requirements cutoff date established for the PDA:

(1) A discussion of how the design has been or will be modified to conform to certain new staff safety requirements that the Director of Nuclear Reactor Regulation (Director, NRR) on the basis of recommendations from the Regulatory Requirements Review Committee (RRRC), has directed be implemented for current and new applications and backfitted on all approved nuclear plants and plant designs.

(2) A discussion of the extent, if any, to which certain other new staff safety requirements should be or have been implemented into the previously approved standard design and justification for any limited implementation. The Director, NRR, on the basis of recommendations from the RRRC, has directed that these safety requirements be implemented for new applications as of specified dates, and that all nuclear plants and plant designs, either previously approved or currently under review for approval, be reviewed to determine if and to what extent, considering the status of operation, construction, or design, these requirements should be backfitted on the plant or design.

(3) A discussion of the extent to which the approved design does in fact conform to all other staff safety requirements established since the regulatory requirements cutoff date for the approved standard design, and approved for implementation for new applications as of specified dates, by the Director, NRR, on the basis of recommendations from the RRRC, even though conformance will not be required for the approved design except under unusual circumstances and with the approval of the Director, NRR. The discussion should include the bases for the acceptability of deviations from the new requirements.

(4) A discussion of the extent to which the design conforms to certain

other staff safety requirements that have been reviewed by appropriate NRR Division Directors and the Director, NRR, and approved for consideration in safety reviews pending review by the RRRC.

The staff will, upon request, inform a PDA-holder intending to request a PDA extension, of the specific matters that would be applicable to that specific design and which would need to be addressed in the application. An application for a PDA extension should be made, whenever possible, so that staff review can be completed prior to the expiration date of the existing PDA or as soon thereafter as is practical. The staff believes that, because of the limited number of matters that will need to be evaluated, it review can be completed within 8 months of the application.

Final Design Approvals

The staff has been informed by a number of architect-engineers that final design information of the form currently provided at the operating license stage of review for a plant under construction cannot practically be provided for a final design approval (FDA) for a balance of plant design, whether it be an FDA-1 or FDA-2, if referencing in subsequent construction permit applications (forward referencability) is permitted, without creating the potential for adverse antitrust consequences. They further contend that, even absent the antitrust concern, the development of FDA-1 or FDA-2 for forward referencability is not practical because it would require a major change in established modes of conducting business which were developed to respond to the needs of their clients.

On the other hand, the nuclear steam supply system vendors contend that their scopes of design and standard modes of business are such that they can provide final design information of the type now required for operating license reviews without fear of unwarranted adverse antitrust consequences.

In view of these differences, the staff has concluded that an alternate procedure is needed if the goal of one-stage licensing review of a complete nuclear plant is to be advanced. The staff believes that such an alternate procedure, involving the concept of a standard design approval (SDA), which would be issued in lieu of a combined PDA and FDA, can be developed, and would be applicable to nuclear steam supply system designs as well as to balance of plant designs. The SDA concept involves the submittal of information that is significantly more developed than that now provided for a preliminary design but somewhat less than that for a final design. It would be limited in many areas to complete functional specifications rather than to actual design drawings and specifications. It would also require a supplementary staff audit function during plant construction to verify that the actual components or features installed or constructed, adequately meet the approved functional specifications. The staff believes it can develop acceptable procedures to permit implementation of the concept; however, it will require a significant amount of time to do so. The staff will study the concept further in order to define the new procedures and practices that would need to be developed, including those addressed to antitrust considerations. It is of interest to note that the Department of Justice is of the opinion that the SDA concept would obviate most, if not all, of the antitrust concerns associated with the standardization program as perceived by the staff.

In the interim, the staff will accept FDA-1 applications from nuclear steam supply system vendors and architect-engineers who wish to obtain approval of a final design that may be referenced in operating licenses applications for plants that referenced the applicable PDA application at the construction permit stage of review. In the same manner described above for a PDA extension application, each FDA-1 application will need to address safety requirements established by the staff since the regulatory requirements cutoff date set for the PDA upon which the FDA-1 application is based. This application should be prepared in accordance with Regulatory Guide 1.70, "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants, LWR Edition," and should identify all deviations from that revision of NUREG-75/087, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants" in effect 6 months prior to the date the FDA-1 application is tendered. The staff will permit referencing of the FDA-1 in applications for construction permits or combined construction permits and final design approvals for purposes of issuance of operating licenses for a period beginning with the docketing date of the FDA-1 application and terminating 3 years after the expiration date of the PDA on which the FDA-1 is based: *Provided*, That the staff is satisfied by information provided by the applicant that the applicant in developing the final design has properly considered antitrust matters, and after due consideration of any comments related to antitrust concerns that might be received from any individual or organization.

In a similar vein, the staff will accept FDA-2 applications from nuclear steam supply system vendors and other parties for designs based on compliance with all regulatory requirements in effect as of the date of docketing of the FDA-2 application. An FDA-2 will be treated in the same manner as an FDA-1 application with respect to antitrust considerations. The staff will permit referencing of the FDA-2 in applications for construction permits or combined construction permits and final design approvals for purposes of issuance of operating licenses from the application docketing date to a date 5 years from the date of the FDA-2 issuance.

Duplicate Plant Concept

The duplicate plant concept involves a number of applications for construction and operation of nuclear power plants of essentially the same design to be located at different sites by one or more utility-applicants. The duplicate plant concept has been demonstrated to be an effective means of reducing staff and applicant resources required for licensing reviews. The concept has been favorably commented upon by all involved parties. In order to enhance the usefulness of the concept, the staff procedures will henceforth permit future standard duplicate plant designs to be referenced in construction permit applications docketed between the docketing date of the initial application referencing the duplicate plant design and a date 5 years after initial staff approval of the duplicate plant design. The staff has concluded that this period of utilization is warranted because of the stability in licensing requirements obtained through use of the standard review plan and the control of changes in regulatory requirements achieved by the Regulatory Requirements Review Committee and the Director of Nuclear Reactor Regulation.

For preliminary duplicate plant designs approved in the future, a preliminary duplicate design approval (PDDA) will be prepared to summarize the staff's approval; this PDDA will be included in the safety evaluation report (SER), or supplement thereto, for each construction permit application referencing the duplicate plant design. The referencability period for the duplicate plant design will end 5 years from the date of the PDDA, unless an earlier termination date is required because the duplicate plant design utilizes a previously approved reference system design whose term of approval expires sooner than 5 years from the date of the PDDA. Staff approvals of such designs do not constitute Commission approval. Each utility application referencing a PDDA must be subjected to the public hearing process prior to the award of a construction permit.

The staff will determine the acceptability of the use of a duplicate plant preliminary design in the initial applications proposing to reference such a design during pretendering and predocketing discussions with the involved utilities. Subsequent to docketing of the initial applications, additional applications proposing to reference the duplicate plant preliminary design will be subjected to a qualification review to determine the acceptability of such referencing. The request for such review should be submitted to the staff at least 1 year prior to the date of tendering of the construction permit application, whenever possible. The request should include the following information:

(1) The arrangements made with the developers of the duplicate plant preliminary design for the use of the design.

(2) The compatibility of the design with site-related characteristics.

(3) A description of changes to the duplicate plant design, if any, and the basis for the changes.

(4) The status of matters identified for the duplicate plant design in the SER and supplements thereto, or subsequently identified by the Advisory Committee on Reactor Safeguards, or during public hearings on applications referencing the duplicate plant design, as requiring subsequent resolution.

(5) Identification of major contractors with justification for the acceptability of any that might be different from those used by earlier applicants using the duplicate plant design.

(6) A discussion of how the duplicate plant design will conform to any changes to the Commission's regulations which have become effective since issuance of the PDDA.

(7) The extent to which the design conforms to certain staff safety requirements that have been reviewed by appropriate NRR Division Directors and the Director, NRR, and approved for consideration in safety reviews pending review by the RRRC. The staff will, upon request, inform the applicant of any such requirements so that they can be properly addressed in the qualification review application.

The procedures for use of the duplicate plant concept at the operating license stage will generally parallel those used at the construction permit stage. Those licensees holding construction permits issued for plants incorporating a duplicate plant design may submit an application at the operating license stage that references a duplicate plant final design. The duplicate plant final design would be reviewed by the staff in the context of its review of the initially docketed operating license applications utilizing the duplicate plant final design. The staff expects to document the basis for its approval of such a duplicate plant final design in the SER, or supplement thereto, for the first application reviewed by the staff. A document termed the final duplicate design approval, or FDDA, will be included in the SER for each application referencing the duplicate plant final design. The FDDA will be applicable to any docketed operating license application referencing the duplicate plant final design, and for which the construction permit was based on referencing of the duplicate plant preliminary design, unless disqualified for good cause as a standard design application. An extensive delay in construction of the plant with an application for an operating license much later than normally expected could, for example, constitute one such good cause.

A duplicate plant design includes a balance of plant design. Therefore, the practicality of utilizing a duplicate plant final design in construction permits or combined construction permits and final duplicate design approvals for purposes of issuance of operating licenses is subject to the same antitrust considerations as previously discussed for reference system designs.

However, consistent with the policy established for the reference system concept, the staff will accept FDDA-1 and FDDA-2 applications for duplicate plant final design approvals under the same conditions described for FDA-1 and FDA-2 reference system final design approval applications, and with the same provisions for referencability in construction permits or combined construction permits and final duplicate design approvals for purposes of issuance of operating licenses. If the staff develops new procedures and practices permitting issuance of a standard design approval (SDA) for a reference system design, those procedures and practices would also be applicable to a duplicate plant design and permit issuance of a standard duplicate design approval (SDDA) for such a design.

Manufacturing License Concept

The manufacturing license concept involves submittal of an application for a number of identical nuclear power plants which would be manufactured at one location and moved to a different location for operation. Appendix M to 10 CFR part 50 requires that a manufacturing license specify the number of units permitted to be manufactured. The number of units to be specified in a manufacturing license will be that number whose start of manufacture, as defined in the license application, can practically begin, considering the limitations inherent in the proposed manufacturing facility, within a 10 year period commencing on the date of issuance of the manufacturing license, but in no event will that number be in excess of ten. However, the staff has concluded that a plant design approved by the staff for a manufacturing license should be updated after a period consistent with the period of approval for a reference system design and a duplicate plant design. Accordingly, the manufacturing license will require the plant design to be updated no later than 5 years after its approval.

The number of units specified in the license will be reduced if the plant design incorporates a reference system design whose term of approval ends sooner than the approval periods associated with the manufacturing license. The reduced number will be that number of units whose start of manufacture can begin during the period from the date of the manufacturing license to the expiration date of the reference system design.

Replicate Plant Concept

The replicate plant concept involves submittal of an application by a utility-applicant for a nuclear power plant of essentially the same design as one previously reviewed and accepted by the staff.

The staff believes that the replicate plant concept can continue to play a useful role in the standardization program. The use of the concept may diminish in the coming years because of the expected increase in the availability of approved standard reference system designs for nuclear steam supply systems and mating balance of plant systems, and the expected increase in the use of the duplicate plant concept as a result of the changes being provided for these alternative concepts.

When an applicant proposes to use the replicate plant concept and to replicate a previously approved plant (termed the base plant) a qualification review must be performed to determine the acceptability of the base plant for replication, and to define specific matters that must be addressed in the construction permit application for the replicate plant. A further requirement for qualification is that the construction permit application for a replicate plant must be submitted within 3 years of the date of issuance of the staff safety evaluation report (SER) for the base plant. The staff qualification procedures will henceforth be modified to provide an additional time limitation on the acceptability of the base plant for replication. If the base plant references an approved reference system design or duplicate plant design, the base plant will be acceptable for replication only if the approval term of the standard reference system or duplicate plant

design expires after the docketing date of the replicate plant application. This requirement will prevent the extension of the period of use of an approved standard design, beyond that intended by the staff at the time of initial approval, by replication of the base plant incorporating the standard plant design.

The qualification review will be initiated upon request by the utility proposing to replicate a base plant design. The request at the construction permit stage should be submitted to the staff at least 1 year prior to the date of tendering of the application, and should include the following information:

(1) The arrangements made with the developers of the base plant design for its replication.

(2) The compatibility of the base plant design with the characteristics of the site proposed for the replicate plant.

(3) A description of changes to the basis plant design, and the bases for the changes.

(4) The status of matters identified for the base plant design in the SER and supplements thereto, or subsequently identified by the Advisory Committee on Reactor Safeguards, or during the public hearing on the base plant application, as requiring subsequent resolution.

(5) Identification of major contractors with justification for the acceptability of any that might be different from those used by the base plant applicant.

(6) A discussion of how the replicate plant design will conform to any changes to the Commission's regulations which have become effective since issuance of the SER for the base plant.

(7) A disucssion of how the design has been or will be modified to conform to certain new staff safety requirements that the Director of Nuclear Reactor Regulation (Director, NRR) on the basis of recommendations from the Regulatory Requirements Review Committee (RRRC), has directed be implemented for current and new applications and backfitted on all approved nuclear plants and plant designs.

(8) A discussion of the extent, if any, to which certain other new staff safety requirements should be or have been implemented into the previously approved design and justification for any limited implementation. The Director, NRR, on the basis of recommendations from the RRRC, has directed that these safety requirements be implemented for new applications as of specified dates, and that all nuclear plants and plant designs, either previously approved or currently under review for approval, be reviewed to determine if and to what extent, considering the status of operations, construction, or design, these requirements should be backfitted on the plant or design.

(9) A discussion of the extent to which the design conforms to certain other staff safety requirements that have been reviewed by appropriate NRR Division Directors and the Director, NRR, and approved for consideration in safety reviews pending review by the RRRC.

The matters referred to in items (7) and (8), above, are applicable to the base plant and it is preferred that, if practical, they be resolved on the base plant with required design changes replicated on the replicate plant. The matters referred to in item (9), above, may be applicable to the base plant upon completion of the RRRC and office director review, but unless they are resolved on the base plant so that required design changes can be replicated, they will need to be addressed and resolved in the replicate plant application.

The procedures for use of the replicate plant concept at the operating license stage will generally parallel those used at the construction permit stage. The qualification review at the operating license stage will be suitably adjusted for the state of the design.

We believe the actions being taken continue to be in the interest of public health and safety and will provide for a more practical standardization program of greater utility to both industry and the staff. The staff will continue its ongoing standardization study in order to define the new procedures and practices that would need to be developed for implementation of the SDA concept, to propose measures to more effectively limit changes to approved standard designs to those required for public health and safety, and to consider other changes that might be made in the future to further enhance the utility and effectiveness of the program. The staff will also revise the guidance it has published in the past in order to bring it into accord with the experience that has been gained, and with the approved changes to the program described herein.

Single copies of the report prepared by the staff may be obtained upon request to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C 20555.

Dated at Washington, D.C. this 22d day of August 1978.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-24130 Filed 8-30-78; 8:45 am]

[7590-01]

[Docket No. 50-466]

ALLENS CREEK NUCLEAR GENERATING STATION, UNIT NO. 1

Availability of Final Supplement to Final Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Supplement to the Final Environmental Statement (FES) (NUREG-0470) prepared by the Commission's Office of Nuclear Reactor Regulation, related to the construction of Allens Creek Nuclear Generating Station, Unit No. 1 in Austin County, Tex., is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Sealy Public Library, 415 Main Street, Sealy, Tex. The Final Supplement to the FES is also being made available at the Houston-Galveston Area Council, 3701 West Alabama Avenue, Sealy, Tex. 77027.

The notice of availability of the Draft Supplement to the FES for the Allens Creek Nuclear Generating Station, Unit No. 1, and request for comments from interested persons was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8844). The comments received from Federal, State, and local agencies and interested members of the public have been included as an appendix to the Final Supplement to the FES.

Copies of the final Supplement to the FES (Document No. NUREG-0470) may be purchased, at current rates, from the National Technical Information Service, Springfield, Va. 22161 (Printed copy: $9.50; microfiche: $3).

Dated at Bethesda, Md., this 23rd day of August 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-24455 Filed 8-30-78; 8:45 am]

[7590-01]

[Docket No. 70-1201]

BABCOCK & WILCOX COMMERCIAL NUCLEAR FUEL PLANT, LYNCHBURG, VA.

Major License Amendment of Special Nuclear Materials License No. SNM-1168

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of a major license

amendment of Special Nuclear Material License SNM-1168 for the installation and operation of a UF_6 conversion facility at the B&W's Commercial Nuclear Fuel Plant at Lynchburg, Va.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed license amendment action. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular license amendment is not warranted because there will be no significant environmental impact attributable to the propsed action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555.

Dated at Silver Spring, Md., this 22d day of August, 1978.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 78-24454 Filed 8-30-78; 8:45 am]

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries, using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-D7A, "Safety Guide on Emergency Electrical Power Systems," has been developed. The Working Group draft of this Safety Guide was modified by the IAEA Technical Review Committee on Design which met in May 1977, and we are soliciting public comments on this modified draft. Comments on this draft received by October 10, 1978, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 552(a).)

Dated at Rockville, Md. this 18th day of August, 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-24456 Filed 8-30-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-35]

SAFETY RECOMMENDATIONS AND RESPONSES

Accident Report

MARINE ACCIDENT REPORT

The National Transportation Safety Board has released its formal report of investigation into the explosion and fire which, on December 17, 1976, destroyed the *SS Sansinena* at Berth 46 in Los Angeles Harbor, Calif. The report, No. NTSB-MAR-78-6, was released August 23 and copies are now available.

Eight crewmembers were killed and a security guard, listed as missing, is presumed dead. Losses, estimated at $21.6 million, included damage to some 260 other vessels, mostly pleasure craft, and damage to residences and commercial structures ashore within a 3-mile radius. Berth 46 could not be used for more than 16 months.

The Safety Board determined that the probable cause of the explosion aboard the *Sansinena* was the ignition by an undetermined source of flammable gases which accumulated above the cargo tanks and the propagation of the resulting fire into a cargo tank through either an opening in the cargo tank's vent pipe system or its uncovered ullage opening. Most of the petroleum vapor-concentrated gases, which were being displaced by pumping seawater ballast into cargo tanks, were being vented through the ullage openings too near to the main deck and at venting velocities too low to adequately disperse the cargo tank gases. The location of the midshiphouse above the cargo tanks further obstructed the dispersion of cargo tank vent gases, increased the potential of an ignition source within the region of flammable gases, and increased the loss of life.

As a result of its investigation, the Safety Board on August 4 issued six recommendations, Nos. M-78-56 through 61, to the U.S. Coast Guard. These recommendations concern the carriage of flammable cargo on tank vessels and are reproduced in the report. (See also 43 FR 36534, August 17, 1978.)

SAFETY RECOMMENDATION LETTERS

Aviation

Investigation of two accidents involving Semco hot air balloons has disclosed an unsafe design characteristic associated with the gondolas which should be corrected, according to the Safety Board.

One accident occurred last November 6 near Mosquero, N. Mex. After a routine flight, the Semco Model T balloon made a normal landing approach in a southwesterly surface wind of 5 to 15 knots. The balloon bounced during the landing, and the gondola was turned on its side and dragged 30 feet by the wind. When the gondola turned over, the pilot's right foot slipped off the gondola deck and was trapped between the edge of the deck and the ground; the pilot's ankle was fractured.

A similar accident occurred on January 24, 1976, near Death Valley, Calif., involving another Semco balloon, the Challenger AX-7. The pilot encountered high winds and turbulence just before landing and executed an emergency rip landing in rough terrain. The gondola turned on its side immediately after hitting the ground, and the pilot's legs slipped off the deck and became trapped between the deck and the ground. High winds dragged the gondola for 300 yards. The pilot suffered multiple compound fractures of both legs.

The Board notes that the gondolas on the Semco Model T and the AX-7 balloons are similar in design and construction. During its investigation of the accident in Mosquero, N. Mex., the Board found that the canvas dodger in the Model T balloon was improperly installed on the gondola frame. The

pilot, who also owned the balloon, had removed the dodger for cleaning and had replaced it improperly. Board review of the maintenance manual for this balloon disclosed that it did not contain instructions on the proper installation or the maintenance of the dodger.

The applicable standards governing balloons are contained in 14 CFR Part 31. Although these standards relate to the airworthiness of balloons, the Board notes that little is required in the way of maintenance information. The Board is aware of the proposed changes of 14 CFR Part 31 which are contained in notice of proposed rulemaking 75-31, Notice No. 8, issued July 11, 1975. The NPRM proposes to require manufacturers to provide the necessary service, maintenance, and repair information for manned free balloons.

In view of the above, the Safety Board on August 22 recommended that the Federal Aviation Administration—

Issue an Airworthiness Directive to require means for securing the canvas dodger to the deck or require other means for eliminating the existing gap between the dodger and the deck on Semco Model T and Challenger AX-7 balloons. (A-78-56)

Amend 14 CFR 31.59 to require that baskets, gondolas, or other enclosures for occupants of manned free balloons be designed to prevent lower extremities from protruding from the provided enclosure when the enclosure is subjected to the test conditions outlined in 14 CFR 31.27(c). (A-78-57)

Expedite the adoption of the 14 CFR Part 31 rule changes contained in NPRM 75-31, specifically in regard to the requirements for a Manual of Instructions for Continued Airworthiness which is proposed in Appendix A of these rule changes. (A-78-58)

Each of the above recommendations is designated "Class II, Priority Action."

Pipeline

Last May 17 in Mansfield, Ohio, a Columbia Gas of Ohio, Inc., construction crew, mistaking an 8-inch, low-pressure steel gas main for an 8-inch, high-pressure steel gas main, drilled a small pilot bit hole through the wall of the low-pressure gas main and began to cut into the pipe wall with a large diameter bit. The construction crew was making a "hot tap" to complete the final tie-in of an 8-inch, replacement gas main to the existing high-pressure system. The hot tap was to be made using a 3-way tapping tee which had its side outlet welded to the "live," high-pressure replacement gas main and its bottom outlet mistakenly welded to the low-pressure gas main. When the 1-inch pilot bit on the Williamson tapping machine attached to the top outlet of the tee penetrated the wall of the low-pressure gas main, gas at 42 psig pressure from the high-pressure gas system entered the 14-inch water column (w.c.) (approximately ½ psig pressure), low-pressure gas main and rapidly increased the pressure in the low-pressure system in a 4.8-square-mile area of Mansfield.

Shortly thereafter, the Mansfield Fire Department began receiving reports of fires caused by excessively high appliance flames on gas appliances. The crew was warned of higher than normal gas pressures by a resident of the area, and immediately took remedial actions which limited the pressure buildup. Meanwhile, a large volume of gas was being vented from a building that housed a district regulator station, three quarters of a mile from the construction site; pressure had exceeded the low-pressure recording gauge which recorded pressure up to 30 inches w.c. (slightly over 1 psig). An oil seal pressure relief valve that had been set for 32 inches w.c. also had been overpressured and was venting gas to the atmosphere through its 4-inch vent pipe. Seven other oil seal relief valves on district regulators within the 4.8-square-mile area also had been overpressured.

There were no fatalities or injuries requiring hospitalization because of this accident. Property damage to 16 houses resulted from the ignition of nearby combustibles by high pilot flames; five of these houses were extensively damaged.

In this accident, the crew was qualified to make hot taps, but it was difficult to identify the correct pipeline because the two lines were identical. However, the Safety Board concludes that because of the similarity of the two gas mains, a pressure gauge tap should have been made to determine the exact location of the high-pressure main. If the construction crew had not immediately shut off the valve on the high-pressure gas main, and if the low-pressure system had not had the eight oil seal relief valves to relieve the high pressure, a catastrophic accident could have occurred.

Accordingly, on August 21 the Safety Board in three separate recommendation letters forwarded remedial recommendations to:

Columbia Gas of Ohio, Inc.—

Install pressure gauges to positively identify all gas mains to be tapped whenever there are two or more mains in the same excavation that cannot be positively verified by location, size, kind, or type of coating, etc. (P-78-45)

Devise some method of physically marking and identifying high- and low-pressure mains if they are the same size and are installed on the same side of the street or have the possibility of crossing each other during installation. (P-78-46)

Revise mapping procedures to require that details of intersections crossed by many gas mains be shown on larger scale drawings where lot line dimensions can be shown. Special attention should be given where the gas mains cross or are within a few feet of each other and cannot be drawn to scale on the 1-inch- to 200-foot-scale atlases. (P-78-47)

Review with its construction crews and others engaged in tapping operations the importance of identifying positively the type of gas main involved before tapping it. (P-78-48)

Revise its company procedure manual to require the use of pressure gauges before tapping a gas main that cannot be positively identified by other means. (P-78-49)

Materials Transportation Bureau, U.S. Department of Transportation—

Revise 49 CFR Part 192 to require that gas company system maps and records be maintained accurately to identify the location, size, and operating pressure of all of their pipelines. (P-78-50)

Revise 49 CFR Part 192 to require that gas system operators verify through pressure monitoring or other means the identity of all pipelines before performing hot taps. (P-78-51)

American Gas Association—

Advise its member companies of the circumstances of this accident and urge them to keep accurate records of facilities and to instruct construction and maintenance crews in the importance of verifying these facilities before working on them. (P-78-52)

Recommendations P-78-45, P-78-48, and P-78-49 are designated "Class I, Urgent Action"; P-78-46, P-78-47, and P-78-52 are for "Class II, Priority Action"; and P-78-50 and P-78-51 are for "Class III, Longer Term Action."

In its letter to the Materials Transportation Bureau, the Safety Board refers to its investigation of a similar accident which occurred in Greenwich, Conn., May 25, 1977. In that accident, a gas company crew tapped a 3-inch casing pipe thinking it was the gas main, and severed the 2-inch gas main inside causing a massive gas escape. The leaking gas entered a building where it exploded and then burned, destroying three buildings, damaging one building, and injuring 10 persons. As in the Mansfield, Ohio, accident, the gas company crew did not have accurate gas main atlases, and they did not positively identify the type, size, and pressure of the gas main to be worked on. Recommendations P-77-24 and 25 were issued as a result of the investigation of the Greewich, Conn., accident.

Railroad

Last December 1 a Louisville and Nashville Railroad switchmen was killed when he fell from the deck of a moving flatcar and into its path. The accident occurred at the company's Tilford Yard in Atlanta, Ga. Investigation indicated that the switchman should have been gripping onto the side of the flatcar, with his feet on the sill step and his hand(s) on the handhold provided. The switch crew fore-

man, who was also on the deck of the flatcar, stated that they were riding on the flatcar because they were unable to maintain a stable footing on the sill step and unable to maintain a secure grip on the side handhold.

Safety appliances on the sides and ends of cars are to provide for the security of persons involved in switching operations; 49 CFR 231.6(c) requires that four side handholds and four sill steps be placed on each flatcar near the ends of the car, but it does not prescribe a vertical location for the side handhold. In many cases, there is insufficient clearance between the top of the sill step, on which the switchman stands, and the side handhold for a switchman to comfortably ride the side of a flatcar. The Safety Board believes that a minimum distance between the top of the sill step and the side handhold should be established for flatcars. This minimum distance should be sufficient to allow a man to ride the side of a flatcar safely and securely.

Therefore, on August 21 the Safety Board recommended that the Federal Railroad Administration—

Amend 49 CFR 231.6 regarding the location of side handholds to more nearly conform with their placement on other types of cars so that a person may safely ride the side of a flatcar in the performance of his duties. (R-78-48) (Class II, Priority Action)

Responses to Safety Recommendations

Aviation

A-78-35 and 36.—Letter of August 8 from the Federal Aviation Administration concerns recommendations issued June 1 following Board investigation of three "Zuni" glider accidents which occurred during the past year.

In answer to A-78-35, which asked FAA to issue, as soon as possible, comprehensive regulations for the design and construction of gliders which reflect the current state of the art and are consistent with the regulatory requirements for other types of aircraft, FAA does not believe there is adequate justification for urgent development of new standards specifically for gliders. FAA does plan, however, to hold a meeting with industry (manufacturers, soaring societies, glider pilots and other interested parties) by the end of the year to examine the problems and issues and to determine what course of action would be in the best interest of safety.

In answer to A-78-36, which recommended that FAA amend current regulations to prevent issuance of experimental certificates for the purposes of exhibition and/or air racing to purchasers of newly manufactured aircraft, FAA states that a change to the rule is not considered necessary to accomplish this objective. This can be handled administratively within the framework of the present rule, FAA said, FAA field personnel have been instructed that certifications in the experimental-exhibition category should only be issued when an aircraft will be used for valid exhibition and racing purposes. They have been further advised that experimental-exhibition certificates should not be issued when there is any intent to circumvent FAA standard airworthiness requirements. This guidance will also be included in FAA's next revision to Order 8130.2B, "Airworthiness Certification of Aircraft and Related Approvals."

Marine

M-78-13.—The July 27 letter from the U.S. Coast Guard is in response to a recommendation issued as a result of the investigation into the sinking of the *SS Edmund Fitzgerald* in Lake Superior, Whitefish Bay, November 10, 1975. The recommendation asked Coast Guard to investigate, together with the American Bureau of Shipping, the effects that the deeper drafts permitted under the 1969, 1971, and 1973 amendments to the Great Lakes Load Line Regulations have had on the structural strength of Great Lakes bulk cargo vessels. Coast Guard was also asked to note any damage or bottom plating wear over the next 2 years caused by the "groundings" of these vessels during loading, unloading, or navigation in restricted-depth waterways, and evaluate the effect on the structural strength of these vessels in a seaway, and to jointly report the findings

In response, Coast Guard states that the effects of deeper draft loading on the structural strength of Great Lakes bulk cargo vessels was studied in 1967. It was agreed that only still water bending moments may be draft dependent in that deeper drafts allow the possibility of higher stresses unless the loading is closely controlled. Coast Guard notes that prior to publishing the new Load Line Regulations for the Great Lakes in 1973, there was no Federal requirement to ascertain the actual still water bending moment for any particular voyage. Coast Guard indicates that the 1973 regulations required every ship to have all loading conditions calculated and included in a loading booklet to be reviewed by the Coast Guard. Since 1973, all Great Lakes ships' plans and loading booklets have been reviewed and approved. This action has helped by providing the masters with a calculated still water bending moment, making it a known value.

Coast Guard states that the effects groundings may have on the structural strength of these vessels is definitely a matter of concern under the regular ship inspection laws, not under the Load Line Act. Also, it is difficult and frequently impossible to determine the cause of much of the bottom damage discovered during a 5-year drydock survey. Coast Guard and the American Bureau of Shipping will jointly study Great Lakes vessel groundings and publish the findings prior to November 1, 1980, in a joint report.

M-78-33 and 34.—Also with reference to recommendations resulting from the Fitzgerald accident is the response dated August 8 from the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

Concerning recommendation M-78-33, which asked NOAA to revise Lake Survey Chart No. 9 showing the areas between Michipicoten Island and Caribou Island in Lake Superior to reflect the findings of the survey performed by the Canadian Hydrographic Service, NOAA reports that the National Ocean Survey issued chartlets in the Ninth Coast Guard District's May 9, 1978, Local Notice to Mariners for Great Lakes charts 14960(9), 14961(9M-Mercator Projection), 14962 (92), and 14963(93). The chartlets were prepared from the 1976 Canadian survey as recommended, and reflect the shoals, soundings, and other hydrographic changes determined by the survey. This survey will be included on the new editions of these charts when they are published during the early winter and early summer of 1979.

Recommendation M-78-34 asked NOAA to evaluate the current methods of forecasting wave heights on the Great Lakes to determine if these methods accurately predict actual wave heights. In response, NOAA explains current methods of forecasting wave heights on the Great Lakes are based primarily on wind and wave computer guidance available to forecasters twice a day. The automated wind forecasts for 12 areas of the lakes are used to derive automated significant wave height forecasts in feet for 64 points on the lakes in 6-hour increments out to 36 hours. These computer forecasts are based on statistical equations which use predictors computed from larger scale atmospheric models. The term "significant wave height" means the average of the one-third highest waves. NOAA states that actual waves at any one time may be almost twice the significant height, and efforts are constantly being made to make users aware of this fact when interpreting its forecasts. A forecast of "actual" waves is impossible within the current state of the art.

Further, NOAA indicates that the National Weather Service now has underway a verification study of the computer wave guidance against phys-

ical measurements from four wave rider bouys that were operating in Lake Michigan and Lake Erie during September, October, November of 1975. Comparisons are being made of forecast vs. observed significant wave heights during storm situations in each month. NOAA expects to publish the study when it is completed.

Railroad

R-72-4, R-73-5, R-74-2 through 5, R-74-28, and R-75-24.—The Federal Railroad Administration on July 14 provided updated responses to eight safety recommendations concerned primarily with track safety. These recommendations were also discussed at the NTSB/FRA quarterly meeting last May 2.

Recommendation R-72-4 asked FRA to research the value of track guardrails to keep derailed equipment in line with the track and to develop safety standards for railroad aerial track structures. This recommendation resulted from investigation of the freight train derailment and subsequent passenger train collision with a hazardous materials car at Sound View, Conn., October 8, 1970. FRA states in response that it believes guardrails are not a major safety factor within the rail industry and that their use does not constitute a high priority. Currently no such studies are in progress nor are any planned.

Recommendation R-73-5 was one of several issued as a result of the derailment of a Penn Central freight train and subsequent collision between a Southern Railway passenger train with derailed freight equipment at Arlington, Va., April 27, 1972. The recommendation asked FRA to modify Federal Track Safety Standards to insure that yard tracks adjacent to main tracks are maintained and inspected so as to eliminate the probability of track-related derailments, and to initiate studies to identify hazards in the joint use of tracks by passenger and freight trains.

FRA reports that it has recently completed a thorough review of the Federal Track Safety Standards. Based on this review and input from the Association of American Railroads, railroad unions and participating States, numerous amendments to the Track Safety Standards were proposed. FRA now awaits technical background and support information for the proposed amendments from Transportation Systems Center in Cambridge, Mass. These amendments will be a major topic at FRA's two-day public hearing on track and related structures, appliances, and devices set for October 18-19, 1978. FRA says it still believes, in the specific instance of yard tracks adjacent to main tracks, that the existing track standards, as they relate to inspection and required remedial action, are adequate for yard track operation. FRA evaluated an obstruction-detection system the installation cost of which was estimated to be about $100,000 per mile in 1973. FRA doubts that such expenditures could be justified on a cost-benefit basis.

Recommendations 2, 3, 4, and 5 were issued in connection with a 1974 Safety Board special study, "Broken Rails: A Major Cause of Train Accidents," and were the subject of a Board inquiry last January 31 asking to be informed of the results of FRA's review of the Federal Track Safety Standards. The recommendations, respectively, asked FRA: to determine the reasons that the number of train accidents attributed to broken rails has increased at a rate four times the rate of increase in rail failures; to promulgate track safety standards that describe the various combinations of rail sections and rail wear limits which are compatible with current standards for track geometry and track structure; to study the facts that affect rail failures and develop criteria that will promote effective rail inspection procedures and regulations; and to develop improved methods of detecting rail flaws in track and to explore the feasibility of including a rail inspection capability on the inspection car that is being developed to measure track geometry.

In response to R-74-2 and 3, FRA provides information similar that in response to recommendation R-73-5, above, concerning FRA's review of Federal Track Safety Standards. FRA notes that revisions which address rail inspection and rail sections will be included in the proposed amendments to the standards.

Concerning R-74-4, FRA notes that on several occasions it has provided the Safety Board with the titles and objectives of studies that specifically address the recommendation; the latest submission of this information was at the May 2 quarterly review meeting. According to FRA, the major objectives for each of these programs are to advance the state-of-the-art of rail flaw detection and to generate data to develop meaningful standards.

In answer to R-74-5, FRA says that it is investigating a number of nondestructive testing procedures not only to develop improved methods of rail flaw detection, but also to increase the speed at which defects can be identified positively. The procedures currently under study are ultrasonic, magnetic, eddy current, and synthetic aperture. FRA also reports that in January 1978 it placed in service an automated track inspection vehicle capable of measuring certain track geometry parameters and of making a continuous search for internal rail discontinuities using a state-of-the-art ultrasonic system. Also, in June 1978 FRA placed in service a hi-rail vehicle which utilizes the latest developments in ultrasonic rail flaw detection. FRA notes that this same type of vehicle is used by a number of railroads to comply with § 213.237, Inspection of rail, of the Track Safety Standards.

Recommendation R-74-28 was issued after investigation of the collision between a freight train and an unoccupied engine on siding at Cotulla, Tex., December 1, 1973, and called on FRA to sponsor a program to develop and test devices for the securement of manually operated switch stands so that they are more resistant to operation by unauthorized persons. FRA reports that as part of its locomotive cab crashworthiness tests, it planned to institute a testing program that would address securing manually operated switch stands. The program was to have been conducted at the Transportation Test Center at Pueblo, Colo., scheduled to begin after completion of the crashworthiness tests, but funds were not available to start the testing and this recommendation has received no further action since.

Recommendation R-75-24 asked FRA to promulgate regulations for rail transit operations which will: (a) prevent or reduce the incidence of and the probability of serious injury to persons entering or leaving rapid transit cars, (b) specify the information passengers should be furnished to assure their safety when entering or leaving transit cars, and (c) require a standard door incident reporting system so that the effectiveness of various door systems and operating practices can be evaluated. The recommendation resulted from investigation of the Long Island Rail Road Company door accident at Huntington Station in New York City, December 1, 1974.

FRA's response indicates the December 16, 1977, court of appeals decision that rapid transit systems are not railroads and therefore are not subject to compliance with FRA regulations. In view of this decision and the recently stated Department of Transportation position that the Urban Mass Transportation Administration has total responsibility in the rapid transit rea, FRA will forego any further action on this any other rapid transit safety recommendation.

R-74-20 and 21.—FRA's letter of July 19 is in response to another Safety Board inquiry of January 31 seeking information as to results of two train-to-train collison tests at Pueblo, Colo., in 1975, and locomotive cab mock-up tests by General Electric Company and Electro-Motive Division. The recommendations resulted from

investigation of the collision of the state-of-the-art transit cars with a standing car at the High Speed Ground Test Center in Pueblo, August 11, 1973.

Recommendation R-74-20 dealt with exploring technical approaches to rail transit car crashworthiness. FRA informs that the results of the impact tests in Pueblo have proven to be not adaptable to rail transit car crashworthiness.

Recommendation R-74-21 addressed the need for establishing design requirements and procedures to facilitate the escape of motormen and engineers from control compartments during impending crashes. FRA, referencing its June 1975 response, says that it has been an active participant on the Locomotive Control Compartment committee that sponsored the locomotive cab mock-up tests. These tests and related research resulted in beneficial changes to the locomotive control compartment section of the Association of American Railroads' Mechanical Division Manual of Standards and Recommended Practices. However, FRA states, these changes are not adaptable to rail transit car operating compartments. For informational purposes, FRA attaches to its response a packet of materials which itemize the work of the Committee and amendments to AAR standards. FRA also asks that future rapid transit related recommendations and inquiries be addressed to the Urban Mass Transportation Administration.

NOTE.—The above notice reports on Safety Board documents recently released and recommendation response letters received. Single copies of the accident report and the Board's recommendation letters in their entirety are available to the general public without charge. Copies of the full text of the responses to recomendations may be obtained at a cost of $4 for service and 10 cents per page for reproduction.

All requests for copies must be in writing, identified by report or recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va., 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)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

AUGUST 28, 1978.

[FR Doc. 78-24596 Filed 8-30-78; 8:45 am]

[3110-01]

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 August 9, 1978 (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; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

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

DEPARTMENT OF ENERGY

Annual Survey of Domestic Oil and Gas Reserves, EIA-23, annually, 1725 oil and gas well operators, C. Louis Kincannon, 395-3211.

VETERANS ADMINISTRATION

Housing Discrimination Complaint, 26-8827, on occasion, 500 complainant, Laverne V. Collins, 395-3214.

ENVIRONMENTAL PROTECTION AGENCY

Information Required for the Preparation Reports Impact, analysis, on occasion, 30 Proposed Regulations, Ellett, C. A., 395-6132.

DEPARTMENT OF ENERGY

Western Coal Development Monitoring System, EIA-26, monthly, 520 large western coal mines, Energy and Science Division, C. Louis Kincannon, 395-3810.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, regulations, commodity supplemental food program (Part 247), on occasion, 56 State district agencies or compatible agencies, local welfare agencies, Ellett, C. A.,395-6132.

Economics, Statistics, and Cooperatives Service, grain drying survey, single-time, 6,000 grain farmers, Clearance Office, 395-3772.

REVISIONS

VETERANS ADMINISTRATION

Notice of Default, 26-6850, on occasion, lenders or holders, 90,000 responses, 15,000 hours, Caywood, D. P., 395-3443.

Declaration of Marital Status, 21-686C, on occasion, claimant, 120,000 responses, 30,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:

Application and agreement—NSLP, SBP, and SNP, FNS-67, 66, and 66-1, on occasion, school food authorities, 5,000 responses, 2,500 hours, Clearance Office, 395-3772.

Child care food program—amendment three (part 226), on occasion, State agencies, 190,772 responses, 141,902 hours, Ellett, C. A., 395-6132.

Science and Education Administration:

1977-78 nationwide food consumption survey and food intake of individuals, single-time, households, interviewers in United States and Puerto Rico, 110,000 responses, 134,140 hours, Office of Federal Statistical Policy and Standard, 673-7956.

Plant introduction evaluation report, S-138 (FLA) 6-77, on occasion, plant growers and nurseries, 200 responses, 20 hours, Clearance Office, 395-3772.

Food and Nutrition Service, nutritional evaluation of the school breakfast program, single-time, school students food service employees and managers, 8,490 responses, 2,700 hours, Human Resources Division, 395-3532.

DEPARTMENT OF COMMERCE

Bureau of Census:

Applicant information, selection aid validation study, D-426, single-time, applicants taking written test for census jobs, 15,000 responses, 1,250 hours, Office of Federal Statistical Policy and Standard, 673-7956.

1978 Report of organization, NC-X1A, annually, multiestablishments in all economic areas, 110,000 responses, 82,500 hours, Office of Federal Statistical Policy and Standard, 673-7956.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, monthly farm report (crop, labor, and livestock data), monthly, general farms, 286,500 responses, 57,300 hours, Office of Federal Statistical Policy and Standard, 673-7956.

Agricultural Marketing Service, application for license to sample cotton under the U.S. Cotton Standards Act, CN-246, on occasion, cotton gins and warehouses, 10 responses, 1 hour, Clearance Office, 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Census:

Refrigeration and air-conditioning equipment, including warm air furnaces—annual production, MA-35M, annually, manufacturing establishments, 280 responses, 350 hours, Office of Federal Statistical Policy and Standard, 673-7956.

EXTENSIONS

Selected instruments and related products, MA-388, annually, manufacturers of instruments and related products, 1,300 responses, 1,300 hours, Office of Federal Statistical Policy and Standard, 673-7956.

Plastics products—annual report, MA-30D, annually, manufacturing establishments, 1,200 responses, 1,200 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF DEFENSE

Department of the Air Force, contractor reporting procedures, propulsion ADPE management system (engine status report), AF-1534, other (see SF-83), contractor activities processing AF engine, 36,000 responses, 9,000 hours, Office of Federal Procurement Policy, 395-3436.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, postsecondary communication network surveys, NCES 2405, on occasion, 57 State executives in postsecondary education, 456 responses, 456 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary, mortgagee's application for partial settlement, FHA 1752, on occasion, FHA approved mortgages, 454 responses, 73 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, rhenium, 6-1159-A, annually, producers and consumers, 14 responses, 7 hours, Clearance Office, 395-3772.

Geological Survey; application for establishment of royalty values, 9-1926, on occasion, lessees and operators of onshore Federal and independent oil and gas leases, 2,000 responses, 6,000 hours, Ellett, C. A., 395-6132.

Rental and Royalty remittance advice, 9-614 A, monthly, lessees and operators of onshore Federal and independent oil and gas leases, 60,000 responses, 30,000 hours, Ellett, C. A., 395-6132.

Lessee's monthly report of sales and royalty, 9-361, monthly, lessees and operators of onshore Federal and independent oil and gas leases, 120,000 responses, 240,000 hours, Ellett, C. A., 395-6132.

Monthly report of operations, 9-329 and 9-329, monthly, lessees and operators of Federal and Indian oil and gas leases, 156,000 responses, 156,000 hours, Ellett, C. A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-24672 Filed 8-30-78; 8:45 am]

[3110-01]

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 August 24, 1978 (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; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

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

U.S. INTERNATIONAL TRADE COMMISSION

Importers Questionnaire for Inv. TA-201-3-6 Clothespins, single time, 55 importers of clothespins, Office of Federal Statistical Policy and Standard, 673-7956.

Purchasers Questionnaire for Inv. TA-201-36 Clothespins, single time, 60 purchasers of clothespin, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education, evaluation of freestyle, NIE 187, other (see SF-83), 59,235 elementary school students, 1,020 teachers; 3,489 parents, human resources division, 395-3532.

U.S. INTERNATIONAL TRADE COMMISSION

Distributors' Questionnaire, single time, 45 distributors of bolts, nuts, and large screws, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, follow-up survey of WEAA project directors, OE-624, single time, 100 former weea project directors, Laverne V. Collins, 395-3214.

National Center for Education Statistics, museum universe survey, NCES 2421, single time, 7,500 Museums, Laverne V. Collins, 395-3214.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare):

Request for approval as supplier of portable X-ray services under the Medicare and/or Medicaid programs, HCFA-1880, on occasion, suppliers requesting to participate in programs, 150 responses; 75 hours; Richard Eisinger, 395-3214.

Independent Laboratory Request to Establish Eligibility in the Medicare and/or Medicaid Programs, HCFA-1517, on occasion, independent laboratories requesting to participate in the programs, 3,000 responses; 1,500 hours; Richard Eisinger, 395-3214.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, application for teacher exchange program, OE 356, 356-1-2-3, on occasion, American teachers and other educators, 1,500 responses; 750 hours; Laverne V. Collins, 395-3214.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, request for deferment of repayment because of Armed Forces, student, Peace Corps, or Vista status, OE 1188, on occasion, individual borrower, 10,000 responses; 1,666 hours; Laverne V. Collins, 395-3214.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, prospectus for proposed contract entitled: Motorist Attitudes Toward Large Trucks, single time, passenger car drivers, Office of Federal Statistical Policy and Standard, 673-7956.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-24715 Filed 8-30-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

VISITS TO POSTAL FACILITIES

AUGUST 25, 1978.

Notice is hereby given that members of the Postal Rate Commission and of the Commission advisory staff made or will make visits to the following postal facilities for the purpose of acquiring general background knowledge of postal operations.

August 17—Wheeling Post Office (W. Va.).
August 18—Pittsburgh BMC.
August 21—Philadelphia BMC.
August 23—Atlanta BMC.
August 24—Denver BMC.
August 28—Kansas City BMC; Seattle BMC; and Dallas BMC.
August 29—Los Angeles BMC and St. Louis BMC.
August 30—Honolulu Post Office.

A report of the visits will be on file in the Commission's Docket Room.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-24480 Filed 8-30-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

GENERAL AVIATION DISTRICT OFFICES AT JACKSONVILLE, ST. PETERSBURG, AND MIAMI, FLA.

Boundary Changes

Notices is hereby given that on September 1, 1978, the boundaries for the General Aviation District Offices at Jacksonville, St. Petersburg, and Miami, Fla., will change. Services to the public relative to the programs formerly provided will continue to be rendered without interruption. New boundaries are:

GADO-7, FAA Building, Craig Field, Jacksonville, Fla. 32211.—The northern boundary is formed by the southern boundaries of the Georgia counties of Clay, Calhoun, Dougherty, Worth, Tift, Irwin, Coffee, Bacon, Wayne, and McIntosh. The western boundary is formed by and includes the counties of Gadsden, Liberty, and Franklin. The southern boundary is formed by and includes the counties of Dixie, Gilchrist, Alachua, Putnam, and Volusia, and is bounded on the east by the Atlantic Ocean.

GADO-8, St. Petersburg/Clearwater Airport, Clearwater, Fla. 33520.—The middle portion of Florida. The north boundary is the line defined by the southern boundaries of the counties of Dixie, Gilchrist, Alachua, Putnam, and Volusia. The south boundary is a line defined by the southern boundaries of Lee, Highlands, Okeechobee, and St. Lucie.

GADO-5, Building 121, Opa Locka Airport, Opa Locka, Fla. 33054.—The southern portion of Florida beginning at the line defined by the southern boundaries of Lee, Highlands, Okeechobee, and St. Lucie.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in East Point, Ga., on August 16, 1978.

W. B. RUCKER,
Acting Director,
Southern Region.

[FR Doc. 78-24377 Filed 8-30-78; 8:45 am]

[4910-13]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS; SPECIAL COMMITTEE 129—FUTURE CIVIL AVIATION FREQUENCY SPECTRUM REQUIREMENTS

Meeting

NOTE.—This document originally appeared in the FEDERAL REGISTER for Tuesday, August 29, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976.)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the RTCA Special Committee 129 on Future Civil Aviation Frequency Spectrum Requirements to be held September 14-15, 1978, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Approval of minutes of the Twelfth Meeting held June 14-15, 1978; (3) Review of Federal Communications Commission Ninth Notice of Inquiry, Docket No. 20271; and (4) Other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on August 25, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-24403 Filed 8-28-78; 8:45 am]

[4910-59]

[Docket No. IP78-2; Notice 2]

GENERAL MOTORS CORP.

Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by General Motors Corp. of Warren, Mich. ("GM") to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for two apparent noncompliances with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, *Occupant Restraint Systems.* The basis of the petition was that the noncompliances were inconsequential as they relate to motor vehicle safety.

Notice of the petition was published on May 1, 1978, and an opportunity afforded for comment (43 FR 18618).

Paragraph S7.3.1 of Standard No. 208 requires motor vehicles to contain a seat belt warning system, part of which consists of a light "displaying the words 'Fasten Seat Belts' or the words 'Fasten Belts' * * *." GM manufactured 196,118 "full size" 1977 model Pontiac passenger cars that displayed only the words "Seat Belt". Further, the word "Belt" appeared in the singular rather than the plural in the display "Fasten Seat Belt" in 77,549 Oldsmobile intermediate-size cars for 1977 and in 71,714 intermediate-size Buick cars in the models years 1974 through 1977.

With respect to the first noncompliance, the petitioner argued that its omission of the word "Fasten" did not degrade the information transmitted to the vehicle occupants, and that the words "Seat Belt" by implication instruct the operator to fasten his belt: "There is no other reasonable interpretation that the driver could be expected to give to this message." As for its omission of the plural "s", GM noted that the initial NHTSA proposal was "Fasten seat belt" and that there was no explanation in the preamble of the final rule to explain the change from the singular to the plural, which, in GM's view, indicates "that in this instance, there is a distinction without a real difference."

No comments were received on the petition.

NHTSA concurs with the arguments presented by GM. The warning light is a reminder to vehicle occupants to fasten their seat belts and could not reasonably be interpreted otherwise. Omission of the plural "s" from "belts" is the kind of noncompliance that NHTSA believes the Congress intended to be deemed inconsequential when it provided exemption authority under section 157 of the National Traffic and Motor Vehicle Safety Act.

Accordingly GM's petition with reference to the two above-described noncompliances with paragraph S7.3.1 of Standard No. 208 is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on August 23, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-24382 Filed 8-30-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held September 25, 26, and 27, 1978, at the Baltimore-Washington International Airport Holiday Inn, 6500 Elkridge Landing Road, Linthicum, Md.

Meetings on September 25 and 26 will be mainly orientation sessions for the newly appointed members. The sessions will be from 8 a.m. to 4:30 p.m. and will consist of an overview of highway safety programs and the interaction among the National Highway Traffic Safety Administration, the Federal Highway Administration, the Office of the Secretary of Transportation, and the National Transportation Safety Board.

On September 27, from 8 a.m. to 3 p.m., the full Committee will meet to discuss and outline activities for the upcoming session.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C., on August 25, 1978.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 78-24400 Filed 8-30-78; 8:45 am]

[4810-25]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

CIVIL RIGHTS ACT OF 1964

Assignment of Compliance Functions Under Title VI

Notice is hereby given that the Secretary of Transportation has assigned certain compliance responsibilities under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d) et seq.) and the Department of Transportation Regulations (49 CFR Part 21) to the Secretary of Health, Education, and Welfare, and the latter has accepted the assignment of such responsibilities. This assignment is contained in a letter dated May 25, 1978, to the Secretary of Health, Education, and Welfare, a copy of which is set below.

Hon. JOSEPH A. CALIFANO, Jr.
Secretary of Health, Education, and Welfare,
Washington, D.C. 20201

DEAR MR. SECRETARY: Pursuant to the authority contained in § 21.21(c) of the regulations of the Department of Transportation effectuating title VI of the Civil Rights Act of 1964, I hereby assign to you the responsibilities, listed below, of the Department of Transportation with respect to institutions of higher education.

1. All actions under 49 CFR 21.9, *Compliance Information*, including the mailing, receiving, and evaluation of compliance reports; and

2. All actions under 49 CFR 21.11, *Conduct of Investigations*, including periodic compliance reviews, receiving of complaints, investigations, determination of recipient's apparent failure to comply, and resolution of matters by informal means.

The Department of Transportation retains the right to exercise these responsibilities in special cases with the agreement of the appropriate official of your Department. In addition, the Department specifically reserves to itself the responsibility for effectuation of compliance under 49 CFR 21.13, 21.15, and 21.17.

The responsibilities so assigned to you are exercised in accordance with the plan for Coordinated Enforcement Procedure for Higher Education, dated February 1966, developed by the interested governmental agencies and approved by the Department of Justice, and may be redelegated by you to other officials of your Department.

If you consent to this assignment, please indicate your acceptance by signing the space provided below.

Sincerely yours,

BROCK ADAMS,
Secretary.

Dated: August 3, 1978.

Accepted:

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc. 78-24618 Filed 8-30-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 146]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FEDERAL REGISTER Doc. 78-23512, appearing at page 37322 in the issue of August 22, 1978, on page 37323, in the first column, "MC 109692 (Sub-58TA)" should be corrected to read "MC 109692 (Sub-59TA)".

[7035-01]

[Decisions Volume No. 23]

DECISION-NOTICE

Decided: August 11, 1978.

The following applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(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 interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe 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. 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 upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and

the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered:

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 2, Members Boyle, Eaton, and Liberman.

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

MC 3246 (Sub-21F), filed June 23, 1978. Applicant: MASTERSON TRANSFER CO., INC., a New York corporation, 3000 Pennsylvania Avenue West, Warren, PA 16365. Representative: Ronald W. Malin, Bankers Trust Building, Jamestown, NY 14701. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *shelving, cabinets, racks, carts, benches, seats,* and (2) *parts and accessories* for the commodities in (1) above, from the facilities of InterRoyal Corp., at Warren, PA, to points in AL, GA, KY, MS, NC, NH, SC, TN, VT, and WI. (Hearing site: Washington, DC.)

MC 9291 (Sub-8F), filed July 5, 1978. Applicant: CARROL BALL, 312 East Market, P.O. Box 53, Centerville, KS 66014. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* (1) from the facilities of Lone Star Industries, at or near Fort. Collins, CO, and facilities of Brown-Strauss Corp., Division of Azcon, at or near Aurora, CO, to the facilities of Brown-Strauss Corp., Division of Azcon, at or near Kansas City, KS, and (2) from the facilities of Brown-Strauss Corp., Division of Azcon, at or near Kansas City, KS, to the facilities of George E. Failing at or near Enid, OK. (Hearing site: Kansas City, MO.)

MC 10875 (Sub-44F), filed July 17, 1978. Applicant: BRANCH MOTOR EXPRESS CO., a corporation, 114 Fifth Avenue, New York, NY 10011. Representative: G. G. Heller (same address as applicant). To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Champion Parts Rebuilders, Inc., Northeast Division, at or near Beech Creek, PA, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: New York, NY, or Washington, DC.)

MC 23618 (Sub-32F), filed July 26, 1978. Applicant: McALISTER TRUCKING CO., a corporation, d.b.a. MATCO, P.O. Box 2377, 2041 South Treadaway Boulevard, Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Posts, poles, and parts* for posts and poles, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, or installation of the commodities in (1) above, from Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX, or Washington, DC.)

MC 25798 (Sub-331F), filed July 27, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts,* from York, PA, to points in AZ, AR, CA, CO, ID, IA, KS, LA, MO, MS, MT, NE, NV, ND, NM, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: Tampa FL.)

MC 29886 (Sub-349F), filed June 26, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4200 39th Avenue, Kenosha, WI 53140. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Concrete roofing tile* and (2) *equipment, materials, and supplies* used in the installation of concrete roofing tile, from Duncanville, TX, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Dallas, TX.)

MC 30837 (Sub-482F), filed June 29, 1978. Applicant: KENOSHA AUTO TRANSPORT CORP., 4200 39th Avenue, Kenosha, WI 53141. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Truck cabs,* from Springfield, OH, and Fort Wayne, IN, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 31389 (Sub-254F), filed July 10, 1978. Applicant: McLEAN TRUCKING CO., a corporation, P.O. Box 213, Winston-Salem, NC 27102. Representative: David F. Eshelman (same address as applicant). To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Cities Service Co. in Marshall County, WV, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Charleston, WV, or Washington, DC.)

MC 33970 (Sub-19F), filed June 30, 1978. Applicant: GEORGE HILDEBRANDT, INC., R.D. No. 2, Hudson, NY 12534. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brick and building tile,* from points in Albany and Saratoga Counties, NY, to points in VT and MA. (Hearing site: Albany, NY.)

MC 35706 (Sub-8F), filed June 23, 1978. Applicant: ATSL, INC., 6801 State Road, Philadelphia, PA 19135. Representative: Steven M. Tannenbaum, 135 North Fourth Street, Philadelphia, PA 19106. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture* (except commodities in bulk), from Mobile, AL, to the facilities of Port-A-Crib, Inc., at Hellam, PA. (Hearing site: Philadelphia PA, or Camden, NJ.)

MC 35706 (Sub-9F), filed June 23, 1978. Applicant: ATSL, INC., 6801 State Road, Philadelphia, PA 19135. Representative: Steven M. Tannenbaum, 135 North 4th Street, Philadelphia, PA 19106. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture,* from the facilities of Telescope Folding Furniture Co., Inc., at Granville, NY, to points in DE, MD, NC, NJ, PA, SC, VA, and DC. (Hearing site: Philadelphia, PA, or Camden, NJ.)

MC 48958 (Sub-151F), filed July 31, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., a Nebraska Corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregu-

lar routes, transporting: *Petroleum and petroleum products,* in containers, from Houston, TX, to points in CO and NM. (Hearing site: Denver, CO.)

MC 53965 (Sub-139F), filed July 13, 1978. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, KS 67401. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meatpacking houses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Coffeyville Packing Co., at Coffeyville, KS, to East St. Louis, IL, and points in SD, TX, IA, MO, and OK. (Hearing site: Kansas City, MO.)

MC 57778 (Sub-23F), filed July 21, 1978. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Avenue, Detroit, MI 48209. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Salt, salt products, and pepper* (except commodities in bulk), from Marysville, MI, to Chicago, IL, and those points in IN on and north of Interstate Hwy 70. (Hearing site: Chicago, IL.)

MC 61592 (Sub-422F), filed June 29, 1978. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Tractors, agricultural implements, motorcycles, and recreational vehicles and* (2) *parts,* for the commodities named in (1) above (except commodities in bulk), from Baton Rouge, LA, to points in the United States (except AK and HI), restricted in (1) and (2) above to the transportation of traffic having a prior movement by water. (Hearing site: New Orleans, LA.)

MC 67999 (Sub-6F), filed July 17, 1978. Applicant: ROBERT ICE TRUCK LINE, INC., P.O. Box 66, Shepardsville, KY 40165. Representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, KY 40601. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Alcoholic beverages,* and (2) *materials and supplies* used in the manufacture and distribution of alcoholic beverages, between Clermont and Louisville, KY. (Hearing site: Louisville, KY, or Washington, DC.)

MC 73688 (Sub-80F), filed July 21, 1978. Applicant: SOUTHERN TRUCKING CORP., 1500 Orenda Avenue, Memphis, TN 38107. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) (a) *Pipe, fittings, valves, hydrants, and castings,* and (b) *materials and supplies* used in the installation of the commodities in (a) above, from points in Calhoun, Jefferson, and Tuscaloosa Counties, AL, to points in the United States in and east of ND, SD, NE, KS, OK, and TX; (2) *materials and supplies* used in the manufacture of the commodities in (1) (a) and (b) above (except commodities in bulk), from the destination points named in (1) above to the origins named in (1) above; (3) *iron and steel articles,* from Gadsden, AL, to points in GA, FL, LA, MS, NC, SC, TN, KY, and TX; and (4) *materials and supplies* used in the manufacture of iron and steel articles (except commodities in bulk, in tank vehicles), from the destination points named in (3) above to Gadsden, AL. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 86779 (Sub-38F), filed July 20, 1978. Applicant: ILLINOIS CENTRAL GULF RR. CO., a corporation, 233 N. Michigan Avenue, Chicago, IL 60601. Representative: John H. Doeringer (same address as applicant). To operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), (1) between Greenwood and Greenville, MS, over U.S. Hwy 82, serving the intermediate point of Leland, MS, (2) between Greenwood and Cleveland, MS, from Greenwood over U.S. Hwy 49E to junction MS Hwy 8, then over MS Hwy 8 to Cleveland, and return over the same route, serving no intermediate points, (3) between Memphis, TN and Marks, TN, from Memphis over Interstate Hwy 55 to junction MS Hwy 6, then over MS Hwy 6 to Marks, and return over the same route, serving no intermediate points, (4) between junction Interstate Hwy 55 and MS Hwy 6, and Oxford, MS, over MS Hwy 6, serving no intermediate points, (5) between junction MS Hwy 6 and MS Hwy 315, and Water Valley, MS, over MS Hwy 315, serving no intermediate points, and (6) between Memphis, TN, and Tupelo, MS, over U.S. Hwy 78, serving the intermediate points of Holly Springs and New Albany, MS. The authority granted here is subject to the following conditions: Service by motor vehicle shall be limited to service which is auxiliary to or supplemental of, rail service of the Illinois Central Gulf RR. Co., subsequently called the railroad. Carrier shall not serve any point not on the railroad. Shipments transported by the carrier shall be limited to those which it receives from or delivers to the railroad under a through bill of lading covering, in addition to the movement by carrier, a prior or subsequent movement by rail. Such further specific conditions as the Commission, in the future, may find necessary to impose in order to restrict said carrier's operations to a service which is auxilliary to, or supplemental of, its rail service. To the extent the certificate to be issued here authorizes transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Memphis, TN, or Chicago, IL.)

MC 89617 (Sub-19F), filed July 5, 1978. Applicant: LEWIS TRUCK LINES, INC., P.O. Box 1494, Conway, SC 29526. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Flat glass,* from Laurinburg, NC, to Charleston, SC. (Hearing site: Raleigh, NC, or Columbia, SC.)

MC 89684 (Sub-103F), filed June 23, 1978. Applicant: WYCOFF CO., INC., 560 South Third West, Salt Lake City, UT 84110. Representative: John J. Morrell (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Las Vegas, NV, and those points in CA in an area bounded by a line beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean, then along that county line to junction CA State Hwy 118, then along CA State Hwy 118 to Sepulveda Boulevard, then along Sepulveda Boulevard to Chatsworth Drive, then along Chatsworth Drive to the corporate boundary of the city of San Fernando, then along that corporate boundary to Maclay Avenue, then along Maclay Avenue and its extension to the Angeles National Forest boundary, then along the Angeles National Forest boundary and San Bernardino National Forest boundary to Mill Creek Road (CA State Hwy 38), then along Mill Creek Road to Bryant Street, then along Bryant Street to and including the unincorporated community of Yucaipa, then along Yucaipa Boulevard to junction Interstate Hwy 10, then along Interstate Hwy 10 to Redlands Boulevard, then along

Redlands Boulevard to Barton Road, then along Barton Road to La Cadena Drive, then along La Cadena Drive to Iowa Avenue, then along Iowa Avenue to CA State Hwy 60; then along CA State Hwy 60 and U.S. Hwy 395 to and including the March Air Force Base, then along CA State Hwy 91 (including the entire city of Riverside) to junction CA State Hwy 55 and CA State Hwy 91, then along CA State Hwy 55 to junction Interstate Hwy 5, then along Interstate Hwy 5 to junction CA State Hwy 1, then along CA State Hwy 1 to the Pacific Ocean, then along the shoreline of the Pacific Ocean then to point of beginning, restricted the transportation of packages or articles weighing in the aggregate more than 200 pounds from one consignor to one consignee on any 1 day. (Hearing site: Salt Lake City, UT, and Los Angeles, CA.)

MC 94265 (Sub-276F), filed July 17, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460, Windsor, VA 23487. Representative: John J. Capo, Suite 212, 4299 Roswell Road, Northeast, Atlanta, GA 30342. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of appendix I to the report in *Description in Motor Carrier Certificates*, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities used by John Morrell & Co., at or near Fort Smith, AR, to points in IL, IN, MI, OH, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 100666 (Sub-403F), filed June 30, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Armco Steel Corp., at Ashland, KY, to Kansas City, MO, and to points in AL, AR, GA, LA, MS, OK, and TN. (Hearing site: Louisville, KY.)

MC 103066 (Sub-73F), filed June 23, 1978. Applicant: STONE TRUCKING CO., a corporation, P.O. Box 2014, Tulsa, OK 74101. Representative: Eugene D. Anderson, Suite 428, 910 17th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products, and building materials*, from Galveston, TX, to points in AR, IA, IL, IN, KS, KY, LA, MI, MS, MO, OK, TN, TX, and WI. (Hearing site: Galveston, TX, or Washington, DC.)

MC 105782 (Sub-10F), filed June 29, 1978. Applicant: HUGHES REFRIGERATED EXPRESS, INC., Highways 17 and 92 West, P.O. Box 2106, Haines City, FL 33844. Representative: M. Craig Massey, 202 East Walnut Street (P.O. Drawer J), Lakeland, FL 33802. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Juices, beverages, and citrus products*, from points in Cameron, Hidalgo, and Nueces Counties, TX, to points in CO, KS, NE, MO, IA, MI, WI, IL, IN, MI, KY, TN, OH, PA, NJ, DE, MD, MA, ME, CT, and RI. (Hearing site: San Antonio or Houston, TX.)

MC 106398 (Sub-819F), filed July 20, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant.) To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transmission poles, and structures, and accessories for transmission poles*, from the facilities of C-E American Pole Structures, at Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant filed a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107295 (Sub-882F), filed July 17, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from Blountstown, FL, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI; SC, TN, VT, VA, WI, WV, and DC. (Hearing site: Washington, DC.)

MC 107445 (Sub-19F), filed July 11, 1978. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 West Troy Avenue, Indianapolis, IN 46225. Representative: Mr. Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conveyors and materials, equipment, and supplies*, used in the manufacture, distribution, and installation of conveyors, (except commodities in bulk), from the facilities of Goodman Conveyor Corp., at or near Murfreesboro, TN, to points in IN, OH, PA, KY, IL, and WV. (Hearing site: Indianapolis, IN, or Nashville, TN.)

MC 108341 (Sub-108F), filed July 5, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 N. Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representative: Jack F. Counts, P.O. Box 8409, Charlotte, NC 28208. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement asbestos pipe and fittings for cement asbestos pipe*, from the facilities of Cement Asbestos Products Co., at or near Ragland, AL, to those points in the United States in and east of MN, IA, MO, AR, and TX. (Hearing site: Washington, DC.)

MC 109689 (Sub-336F), filed July 24, 1978. Applicant: W. S. HATCH CO., a corporation, P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, from points in Sweetwater County, WY, to points in the United States (including AK, but excluding AZ, CA, CO, HI, ID, MT, NE, NV, NM, ND, OR, SD, TX, UT, and WA). (Hearing site: Salt Lake City, UT.)

MC 111375 (Sub-98F), filed July 13, 1978. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Charles E. Dye, P.O. Box 3358, Madison, WI 53704. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yogurt*, from points in MI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 111485 (Sub-20F), filed July 17, 1978. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. 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 definded by the Commission, commodities in bulk, and those requiring special equipment), between Paris, TN and Murray, KY, over U.S. Hwy 641, serving no intermediate points. (Hearing site: Murray, KY.)

MC 111812 (Sub-578F), filed June 29, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: David Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from

the facilities of Miami Margarine Co., at Albert Lea, MN, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing Site: St. Paul, MN.)

MC 112801 (Sub-203F), filed July 5, 1978. Applicant: TRANSPORT SERVICE CO., a corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corn syrup and sugar, and* (2) *blends* of commodities in (1) above, from Cincinnati, OH, to St. Louis, MO, and to points in IL, MS, NC, TN, VA, WV, and IN. (Hearing site: New Orleans, LA.)

MC 112801 (Sub-206F), filed July 26, 1978. Applicant: TRANSPORT SERVICE CO., a corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Bay City and Midland, MI, to points in IL, IN, and WI. (Hearing site: Washington, DC.)

MC 112989 (Sub-72F), filed July 17, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles as described in Appendix V to the report in Descriptions in Motor Carrier Certificates*, 61 MCC 209, from Portland, OR, to points in NV. (Hearing site: Portland, OR).

NOTE.—Tacking is authorized at Portland, OR, with carrier's authority in MC 112989 (Sub-30), issued January 22, 1975, to provide a through service on the commodities authorized above, from points in OR and WA, to points in NV.

MC 113855 (Sub-441F) filed July 13, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE., Rochester, MN 55901. Representative: James M. Sanden, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from points in MT, ID, and WY, to points in WA and OR. (Hearing site: Portland, OR.)

MC 114457 (Sub-405F), filed June 26, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant.) To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionary and confectionary products*, from (a) Freehold, NJ, and (b) Covington, TN, to those points in the United States in and east of MT, WY, NE, KS, OK, and TX. (Hearing site: New York, NY, or Trenton, NJ.)

MC 114457 (Sub-410F), filed July 5, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic containers*, from the facilities of the Continental Group, Inc., in (a) Hillsborough County, NH, (b) Kent County, MI, and (c) Morris and Passaic Counties, NJ, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies used in the manufacture and distrubution of plastic containers*, from the destination points named in (1) above to the origins named in (1) above. (Hearing site: New York, NY, or St. Paul, MN.)

MC 114552 (Sub-168F), filed June 30, 1978. Applicant: SENN TRUCKING CO., a corporation, Post Office Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corp., at or near (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (b) Benwood, Beechbottom, Wheeling, and Follansbee, WV, and (c) Allenport and Monessen, PA, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, and VA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114632 (Sub-171F), filed June 26, 1978. Applicant: APPLE LINES, INC., a Nebraska corporation, P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except commodities in bulk), from Albert Lea, MN, to points in the United States (except MN, AK, and HI). (Hearing site: Minneapolis, MN, or Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 115496 (Sub-93F), filed June 26, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe, fittings, valves, and hydrants*, and (2) *accessories* for the commodities in (1) above, from the facilities of U.S. Pipe & Foundry Co., at North Birmingham and Bessemer, AL, to Mobile, AL, restricted in (1) and (2) above to the transportation of traffic having a subsequent movement by water. (Hearing site: Atlanta, GA, or Birmingham, AL.)

MC 115496 (Sub-95F), filed June 25, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Composition board and plywood*, and (b) *accessories and materials* used in the installation and sale of the commodities in (1)(a) above (except commodities in bulk), from the facilities of Abitibi Corporation, in Lucas County, OH, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX; and (2)(a) *composition board, particle board, and plywood*, and (b) *accessories, materials, and supplies*, used in the sale and distribution of the commodities in (2)(a) above (except commodities in bulk), from Blountstown, FL, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: Atlanta, GA.)

MC 115651 (Sub-40F), filed June 30, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: Robert D. Higgins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, from the facilities of Koch Refining Co., at or near Dubuque, IA, to points in IA, IL, and WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

NOTE.—Dual operations may be at issue in this proceeding. The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 115651 (Sub-41F), filed July 5, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: Robert D. Higgins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dicalcium phosphate*, from the facilities of Beker Industries Corp., at or near Marseilles, IL, to points in IN, IA, MO, MI, WI, and OH. (Hearing site: Chicago, IL, or Milwaukee, WI.)

NOTE.—Dual operations may be at issue in this proceeding. The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC115904 (Sub-107F), filed June 27, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (*1*) *masonry and masonry articles* (except commodities in bulk), and (*2*) *supplies used in the manufacture and distribution of the commodities named in* (*1*) *above* (except commodities in bulk), between the facilities of Interstate Brick Co., at or near West Jordan, UT, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT, or Washington, DC.)

MC116254(Sub-208F), filed June 27, 1978. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in Mobile County, AL, to points in AL, AR, FL, GA, KY, LA, IL, IN, MS, MI, MO, NC, OH, SC, TN, TX, VA, and WV. (Hearing site: Mobile, AL, or Washington, DC.)

MC116457 (Sub-31F), filed June 19, 1978. Applicant: GENERAL TRANSPORTATION, INC., 1804 South 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Representative: D. Parker Crosby (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *refractories* and (2) *commodities* used in the installation of refractories (except in bulk, in tank vehicles), (a) from points in TX and AR to points in CO, WY, MT, AZ, NV, and points in Kern, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Los Angeles, Riverside, Orange, and San Diego, Counties, CA, (b) from points in CA, to points in AZ, NM, and TX, (c) from points in AZ, to points in TX, and (d) from ports of entry on the International Boundary line between the United States and the Republic of Mexico, in AZ, CA, NM, and TX, to points in AZ, NM, TX, UT, CA, NV, WA, OR, and ID. (Hearing site: Phoenix, AZ, or Dallas, TX.)

MC 117068 (Sub-99F), filed July 28, 1978. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock feed bunkers, forage metering devices, animal waste spreader tanks, and livestock feeding systems*, and (2) *parts and accessories* for the commodities named in (1) above, from the facilities of A. O. Smith Corp., at or near (a) DeKalb and Eureka, IL, and (b) Elkhorn, WI, to points in AL, FL, GA, IN, KY, ME, MD, MI, MS, NH, NC, SC, TN, VA, VT, WV, and OH (except Ashtabula, Columbiana, Jefferson, Mahoning, Trumbull, Belmont, and Monroe Counties, Ohio); restricted in (1) and (2) above to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL.)

MC 119789 (Sub-502F), filed July 17, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Chef Pierre, Inc., at or near Forest, MS, to points in the United States (except AK, AL, AR, HI, KY, LA, MS, NC, and SC). (Hearing site: Chicago, IL.)

MC 121060 (Sub-68F), filed June 28, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Suite 200, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition board*, and (2) *materials and supplies* used in the installation of composition board (except commodities in bulk), from Meridian, MS, to points in IL, IN, OH, MI, OK, KS, MO, VA, and WV. (Hearing site: Birmingham, AL.)

MC 123255 (Sub-169F), filed July 13, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings for plastic pipe*, from the facilities of Phillips Products Co., Inc., at or near Williamstown, KY, to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, WV, and WI. (Hearing site: Columbus, OH.)

MC 124078 (Sub-841F), filed July 26, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Cowan, TN, to points in AR, FL, MO, OH, and points in MS in and south of Kemper, Neshoba, Leake, Madison, Yazoo, Sharkey, and Issaquena Counties. (Hearing site: Nashville, TN.)

MC 124078 (Sub-842F), filed July 26, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, in bulk, in hopper-type vehicles, from the facilities of Southern Talc, at or near Chatsworth, GA, to the facilities of Koppers Co. Inc., at or near Houston, TX. (Hearing site: Pittsburgh, PA.)

MC 124306 (Sub-44F), filed June 26, 1978. Applicant: KENAN TRANSPORT CO., INC., P.O. Box 2729, Chapel Hill, NC 27514. Representative: Richard A. Mehley, 1000 16th Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral spirits*, in bulk, in tank vehicles, from Wilmington, NC, to Richmond, VA. (Hearing site: Richmond, VA.)

MC 124821 (Sub-32F), filed July 5, 1978. Applicant: WILLIAM GILCHRIST, 509 Susquehanna Avenue, Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Health and beauty products, shampoos, paint compounds, and cleaning compounds*, and (2) *materials and supplies* used in the manufacture and distribution of health and beauty products, (a) from Chicago, IL, to points in NY, NJ, PA, CT, MA, ME, and RI, and (b) from New York, NY, to Chicago, IL, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of J. L. Prescott Co. at Chicago, IL. (Hearing site: Harrisburg, PA.)

MC 124887 (Sub-59F), filed June 30, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and crossties*, from points in AL, to points in FL, MS, NC, and SC. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 125708 (Sub-151F), filed July 27, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 West 152nd Street, East Chicago, IN

46312. Representative: Joseph H. Klostermann, 109 S. Velma, South Roxana, IL 62087. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed, feed ingredients, and additives*, and (2) *materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in AL, AK, CT, DE, FL, GA, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NH, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 126118 (Sub-88F), filed July 27, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie, P.O. Box 81228 Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by a manufacturer of *rubber tires*, from Findlay and Akron, OH, to points in NE. (Hearing site: Lincoln, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 126291 (Sub-24F), filed June 29, 1978. Applicant: QUIRION TRANSPORT, INC., 4516 Laval Street, Lac Megantic, Frontenac County, PQ, Canada G6B 1C5. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *building materials* (except in bulk), from points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, OH, and GA, to the points of entry on the international boundary line between the United States and Canada, at or near Coburn Gore and Jackman, ME; (2) *plastic film and sheeting*, from Auburn and Pottstown, PA, to the ports of entry on the international boundary line between the United States and Canada, at or near Coburn Gore and Jackman, ME; (3) *plastic articles* (except in bulk), from Mooresville, NC, to the ports of entry on the international boundary line between the United States and Canada, at or near Coburn Gore and Jackman, ME; (4) *plastic granules* (except in bulk), from Washington, WV, to the ports of entry on the international boundary line between the United States and Canada, at or near Coburn Gore and Jackman, ME; and (5) *methyl methacrylate monomer* (except in bulk), from Belle, WV, to the ports of entry on the international boundary line between the United States and Canada, at or near Coburn Gore and Jackman, ME, restricted in (1)-(5) above to the transportation of traffic in foreign commerce destined to the Province of PQ, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Boston, MA, or Augusta, ME.)

NOTE.—The restriction and condition contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority To Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Province of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restrictions was imposed, as being null and void and having no force or effect.

MC 126428 (Sub-9F), filed July 27, 1978. Applicant: ZIBERT TRANSPORT CO., a corporation, 2828 Market Street, Peru, IL 61354. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from the facilities of Texas Sulphur Products, at or near Ottawa, IL, to points in IL, IN, IA, KY, MI, MO, MN, NE, ND, OH, PA, SD, and WI. (Hearing site: Chicago, IL.)

MC 126715 (Sub-13F), filed July 13, 1978. Applicant: TRANSPORT SERVICE, a corporation, 8101 Northeast 11th, Portland, OR 97211. Representative: John G. McLaughlin, Suite 1440, 200 Market Street, Portland, OR 97201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial asphalt* (except road surfacing asphalt), *and coal tar products*, in bulk, from points in Snohomish, King, and Pierce Counties, WA, (1) to points in OR, ID, and MT, and (2) to the ports of entry on the international boundary line between the United States and Canada, at or near Blaine, WA, restricted in (2) above to the transportation of traffic in foreign commerce destined to points in the Province of British Columbia, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Seattle, WA.)

NOTE.—The restriction and condition contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority To Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Province of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restrictions was imposed, as being null and void and having no force or effect.

MC 129387 (Sub-68F), filed July 3, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Doug W. Sinclair (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except meats, and commodities in bulk), from the facilities of Campbell Soup Co., at or near Omaha, NE, to points in ND and SD. (Hearing site: Omaha, NE.)

MC 129809 (Sub-11F), filed July 17, 1978. Applicant: A & H, INC., P.O. Box 346, Footville, WI 53537. Representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities used by Universal Foods Corp., (a) in the New York, NY, commercial zone, and (b) at Lancaster, PA, to points in OH, IN, and PA, under a continuing contract with Universal Foods Corp., of Milwaukee, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 134477 (Sub-248F), filed June 30, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of batteries* (except commodities in bulk), from Appleton, WI, to the facilities of Polaroid Corp., at or near Waltham and Needham, MA. (Hearing site: Minneapolis, MN.)

MC 134477 (Sub-249F), filed June 29, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, trans-

porting: *Sodium sulfate* (except in bulk), from Brownfield, TX, to Eagan, MN. (Hearing site: Minneapolis, MN.)

MC 134477 (Sub-250F), filed June 29, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, and *articles distributed by meatpacking houses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Fargo Beef Industries, Inc., at or near Fargo, ND, to points in AL, AZ, AR CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

MC 135797 (Sub-128F), filed June 29, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *animal feed and animal feed ingredients* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Perk Foods, at or near (a) Kansas City, KS, and (b) Camp Hill and Mechanicsburg, PA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KY, KS, LA, MA, MD, ME, MI, MN, MO, MS, NC, ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, AND WV, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL.)

MC 136168 (Sub-27F), filed July 28, 1978. Applicant: WILSON CERTIFIED EXPRESS, INC., a Delaware corporation, P.O. Box 717, Marshall, MO 65340. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *meats, meat products, and meat byproducts, and articles distributed by meatpacking houses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities used by Wilson Foods Corp., at Oklahoma City, OK, to points in IL, IA, KS, MN, MO, NE, and WI, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of the commodities named in (1) above (except commodities in bulk and those which by reason of size or weight require the use of special equipment), from points in IL, IA, KS, MN, MO, NE, and WI, to the facilities of Wilson Foods Corp., at Oklahoma City, OK, under continuing contract(s) with Wilson Foods Corp., of Oklahoma City, OK. (Hearing site: Oklahoma City, OK, or Omaha, NE.)

NOTE.—Dual operations may be involved in the proceeding.

MC 138824 (Sub-12F), filed June 22, 1978. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 South La Salle Street, Room 1620, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, in containers, and *materials and supplies used in the manufacture and distribution of food products*, (1) between the facilities of RJR Foods, Inc., at or near Plymouth, Argus, and South Bend, IN, and points in IL, IA, KY, MO, OH, WV, and WI, (2) between the facilities of RJR Foods, Inc., at or near Lockport, NY, and the facilities of RJR Foods, Inc., at or near Plymouth, Argus, and South Bend, IN, and (3) between the facilities of RJR Foods, Inc., at or near Lockport NY, and points in Cook, Du Page, Kane, and Will Counties, IL, and Miami County, OH, under continuing contract(s) with RJR Foods, Inc., of Winston-Salem, NC.

MC 138875 (Sub-97F), filed July 17, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Frankin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen cookie dough*, from Lake City, PA, to the facilities used by Ore-Ida Foods, Inc., at or near (a) Boise and Burley, ID, and (b) Ontario, OR, and (2) *frozen pizza*, from Massillon, OH, to the facilities used by Ore-Ida Foods, Inc., at or near (a) Boise and Burley, ID, and (b) Ontario, OR, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the named destination facilities. (Hearing site: Boise, ID, or Washington, DC.)

MC 138882 (Sub-100F), filed June 26, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, Al 36081. Representative: George AL. Olsen, P.O. Box 357 Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquets* from Springfield, OR, to points in WA, ID, MT, WY, and CA. (Hearing site: Louisville, KY, or Montgomery, AL.)

MC 138882 (Sub-102F), filed June 28, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357 Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, wood chips, vermiculite, lighter fluid, sawdust, and fireplace logs*, from points in Tucker County, WV, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, from the destination points named in (1) above to points in Tucker County, WV. (Hearing site: Louisville, KY, or Montgomery, AL.)

MC 13882 (Sub-104F), filed June 29, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquets, fireplace logs, wood chips, lighter fluid, spices, sauces, and vermiculite* (except commodities in bulk), from Cotter, AR, to points in the United States (except AK and HI), and (2) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from points in the United States (except AK and HI), to Cotter, AR. (Hearing site: Louisville, KY, or Montgomery, AL.)

MC 139495 (Sub-365F) filed July 14, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barbecue grills and accessories for barbecue grills*, from Columbus, GA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

MC 140829 (Sub-125F), filed July 20, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by health and beauty aid distributors and wholesalers (except commod-

ities in bulk, in tank vehicles), from the facilities of Advance Promotions & Supreme Distrubutors Co., at Detroit, MI, to points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, and WY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 141097 (Sub-19F), filed July 3, 1978. Applicant: CAL-TEX, INC., a North Carolina corporation, P.O. Box 1678, Costa Mesa, CA 92626. Representative: Greg P. Steffire, 700 South Flower, Suite 1724, Los Angeles, CA 90017. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *yarn and fiber*, and (2) *materials and supplies* used in the manufacture of yarn and fiber, (a) from the facilities of A. M. Smyre Mfg. Co., at or near Ranlo, Albermarle, and Gastonia, NC, to points in CA, AR, and OK, (b) from Foley, AL, Lowland, TN, Pensacola, FL, and Abbeyville and Edgefield, SC, to the facilities of A. M. Smyre Mfg. Co., at or near Ranlo, Albemarle, and Gastonia, NC, and (c) from the facilities of A. M. Smyre Mfg. Co., at or near Ranlo, Albemarle, and Gastonia, NC, to ports of entry on the international boundary line between the United States and Canada in MT, ID, and WA, restricted in (c) above to the transportation of traffic in foreign commerce destined to Kelowna, British Columbia, and Calgary, Alberta, Canada, under continuing contract(s) with A. M. Smyre Mfg. Co., of Ranlo, NC. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Los Angeles, CA, or Washington, DC.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled "Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority To Handle Traffic to an From Points in Canada" published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 141914 (Sub-44F), filed June 19, 1978. Applicant: FRANKS & SON, INC., Route 1, Box 108A Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegatables* (except in bulk), from Bellingham, WA, to points in OH, WV, VA, MD, DE, PA, NY, NJ, RI, CT, NH, VT, ME, MA, and DC. (Hearing site: Seattle, WA.)

MC 141958 (Sub-5F), filed July 27, 1978. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Washers and dryers*, from Herrin IL, to Centralia and Carbondale, IL, and Cape Girardeau and St. Louis, MO, restricted to the transportation of traffic having a subsequent movement by rail, under continuing contract(s) with Norge Co., a Division of the Fedders Corp., of Herrin, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 142157 (Sub-2F), filed June 27, 1978. Applicant: LOBIANCO TRUCKING CO., INC., Crone Road, R.D. 5, York, PA 17402. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and cooling equipment* (except commodities which by reason of size or weight require the use of special equipment), from York, PA, to points in the United States (except AK, CT, DE, HI, MD, NJ, NY, OH, PA, DC, those points in VA on, north, and east of a line beginning at Virginia Beach, VA, and extending along U.S. Hwy 60 to its junction with U.S. Hwy 11, then along U.S. Hwy 11 to the VA-WV State line, and those in WV on and north of U.S. Hwy 50); and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), from the destination points named in (1) above, to York, PA. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 142559 (Sub-32F), filed July 24, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients, additives, and materials and supplies* used in the manufacture and distribution of animal feed (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near (a) Mattoon, IL, (b) Columbus, OH, and (c) Hutchinson, KS, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 142704 (Sub-4F), filed June 19, 1978. Applicant: TRANS-TECH, INC., 1717 North Broadway, St. Louis, MO 63102. Representative: (Same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cellulose fiber products, insulating materials, and borates*, from St. Louis, MO, to points in AL, AR, IL, IN, IA, KS, KY, LA, MI, MS, TX, MO, NE, OH, OK, TN, and WI, under a continuing contract with Fibron Corp., of St. Louis, MO. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 142901 (Sub-4F), filed July 5, 1978. Applicant: TMI TRANSPORT CORP., 050 Third Avenue West, Dickinson, ND 58601. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bagged insulation, and materials, equipment, and supplies* used in the installation of bagged insulation, (a) from Fargo, ND, to points in IA, MN, MT, NE, SD, WI, and WY, and (b) from Orrville, OH, and Dallas, TX, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture and distribution of bagged insulation (except commodities in bulk), from points in the United States (except AK and HI), to Fargo, ND, Orrville, OH, and Dallas, TX. (Hearing site: Fargo, ND.)

NOTE.—Dual operations are involved in this proceeding.

MC 143687 (Sub-3F), filed June 28, 1978. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, MA 02053. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between Lowell, MA, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Mobil Chemical Co., Plastics Division, of Macedon, NY. (Hearing site: Boston, MA, or buffalo, NY.)

MC 143787 (Sub-2F), filed June 30, 1978. Applicant: ADMIRAL TRANSPORT CORP., 821 Pulliam Avenue,

Worland, WY 82401. Representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages*, from Worland, WY, to points in ND, under a continuing contract with Admiral Beverage Corp., of Worland, WY. (Hearing site: Cheyenne, WY, or Denver, CO.)

MC 144549 (Sub-4F), filed July 24, 1978. Applicant: PITTSVILLE SERVICES INC., 146 Daniels Avenue, Pittsfield, MA 01201. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood residuals*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, between Norway, ME, and Pittsfield, MA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA, under a continuing contract with Wilner Wood Products Co., of Norway, ME. (Hearing site: Augusta, ME or Albany, NY.)

MC 144659 (Sub-1F), filed July 24, 1978. Applicant: GEORGE G. SOUHAN, INC., Canal Street, Seneca Falls, NY 13148. Representative: Murray J. S. Kirshtein, 118 Bleecker Street, Utica, NY 13501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fruit juices and dairy products*, (2) *materials and machinery* used in the manufacture and distribution of fruit, fruit juices, and dairy products, and (3) *commodities* otherwise except from regulation pursuant to the provisions of section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities in (1) and (2) above, between points in Cayuga, Ontario, Seneca, and Wayne Counties, NY, on the one hand, and, on the other, points in CT, MA, NJ, OH, PA, RI, and VT, under continuing contracts with Timothy Farms, Inc., of Seneca Falls, NY, J. Souhan & Sons, Inc., of Seneca Falls, NY, and Hogan-Souhan Allstar Dairy of Auburn, Inc., of Auburn, NY. (Hearing site: Syracuse or Rochester, NY.)

MC 144688 (Sub-8F), filed July 14, 1978. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by grocery and food business houses, between Atlanta, GA, and Houston, TX. (Hearing site: Atlanta, GA.)

MC 144940 (Sub-1F), filed June 30, 1978. Applicant: LLOYD E. PETERS, GRATZ E. PETERS, GARY R. PETERS, AND GREGORY R. PETERS, a partnership, d.b.a. LLOYD E. PETERS & SONS, 206 East State, Erie, KS 66733. Representative: Clyde N. Christey, Suite 110-L, Kansas Credit Union Building, 1010 Tyler, Topeka, KS 66612. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between Memphis, TN, and Erie, KS, under continuing contracts with Prest Lumber Co., Inc., of Erie, KS, and Prest Manufacturing Co., Inc., of Memphis, TN. (Hearing site: Kansas City, MO.)

MC 144974F, filed June 23, 1978. Applicant: KEENE'S TRANSFER, INC., 1019 East Avenue, Tomah, WI 54660. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transportating: *Prefabricated fiberglass shelters, prefabricated fiberglass buildings, and prefabricated fiberglass structures*, from the facilities of Kenco Plastics Co., Inc., at or near Necedah, WI, to points in the United States (except AK and HI), under continuing contract(s) with Kenco Plastics Co., Inc., Necedah, WI. (Hearing site: Madison, WI.)

MC 144977F, filed June 30, 1978. Applicant: BOBBY McDANIEL, d.b.a., SERVICE TRUCKING CO., 2050 Beaver Road, Rossville, GA 30741. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. 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, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cleveland, TN, on the one hand, and, on the other, Charleston and Calhoun, TN, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Chattanooga or Knoxville, TN.)

MC 144978 (Sub-2F), filed July 26, 1978. Applicant: MIDWESTERN PLASTICS AND CHEMICALS, INC., 1025 Avenue M, Grand Prairie, TX 75050. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic resins* (except in bulk), from Houston, TX, to points in AL, CT, FL, GA, IL, IN, KY, MA, MN, NJ, NC, OH, SC, and TN; and (2) *scrap plastic materials* (except commodities in bulk), from Lake Charles, LA, to Houston, TX, under continuing contract(s) with Synthetic Materials Corp., of Houston, TX. (Hearing site: Houston, TX, or Washington, DC.)

MC 145054F, filed June 19, 1978. Applicant: COORS TRANSPORTATION CO., a corporation, 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, Suite 1600, 1660 Lincoln Street, Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trunks and traveling bags*, and (2) *materials and supplies used in the manufacture of trunks and traveling bags*, from Tucson and Nogales, AZ, to the facilities used by the Samsonite Corp., at or near Denver, CO. (Hearing site: Denver, CO.)

NOTE.—Dual operations are involved in this proceeding.

MC 145059 (Sub-1F), filed July 11, 1978. Applicant: SPINELLI BROS. TRUCKING, INC., 55 South Wade Boulevard, Millville, NJ 08332. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass tableware*, from Millville, NJ, to points in AZ, CA, CO, KS, OR, UT, and WA. (Hearing site: Philadelphia, PA, or Newark, NJ.)

PASSENGER AUTHORITY

MC 1515 (Sub-248F), filed July 17, 1978. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers, (1) between Asheville, NC, and Knoxville, TN; over Interstate Hwy 40, serving all intermediate points, (2) between Newport, TN, and junction Interstate Hwy 40 and TN Hwy 32, over TN Hwy 32, serving all intermediate points, (3) between junction U.S. Hwy 25W and TN Hwy 113 and junction TN Hwy 113 and Interstate Hwy 40, over TN Hwy 113, serving no intermediate points, and (4) between Dandridge, TN, and junction TN Hwy 92 and Interstate Hwy 40, over TN Hwy 92, serving all intermediate points. (Hearing site: Knoxville, TN and Asheville, NC.)

NOTE.—Coincidental with this grant the authority in No. MC 1501 (Sub-172), sheet No. 10, second paragraph, which reads as follows: From Newport, TN over U.S. Hwy 25 to Asheville, NC and return over the same route, is canceled.

MC 144124 (Sub-1F), filed June 9, 1978. Applicant: CONSOLIDATED BUS SERVICE, INC., 1515 Jefferson Street, Hoboken, NJ 07030. Representative: Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. To oper-

ate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, between Deal, NJ, and New York, NY, under a continuing contract(s) with E.J.Z. Corp., of Ocean Township, NJ. (Hearing site: New York, NY, or Newark, NJ.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

[FR Doc. 78-24410 Filed 8-30-78; 8:45 am]

[7035-01]

Volume No. 112

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before October 2, 1978. Such protests shall comply with Special Rule 247(e) 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.

MC 12736 (M-1F) (Notice of filing of petition for modification of territorial scope of broker's license), filed June 27, 1978. Petitioner: LONE STAR TRAVELERS, INC., Suite 248, 6800 Main Street, Houston, TX 77030. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. Petitioner holds a license No. MC 12736, reissued April 10, 1978, authorizing petitioner to engage in operations at Houston, TX, as a *broker* of passengers and their baggage, in roundtrip, sightseeing tours, beginning and ending at Houston, TX, and extending to points in the United States (except AK and HI), but including ports of entry on the United States-Canada boundary line. By the instant petition, petitioner seeks to modify the territorial description to authorize it to broker such operations between points in the United States (including AK and HI). The type of operations authorized and the point at which such operations are conducted remain the same.

MC 103926 (Sub-13) (M1F) (Notice of filing of petition to modify certificate), filed June 16, 1978. Petitioner: WT MAYFIELD SONS TRUCKING CO., INC., P.O. Box 947, Mableton, GA 30059. Representative: K Edward Wolcott, 235 Peachtree Street Northeast, Atlanta, GA 30303. Petitioner holds a motor *common carrier* authority in MC 103926 (Sub-13), issued October 13, 1967 authorizing transportation over irregular routes of: *Metal tanks, set-up*, requiring special equipment and handling from Newnan, GA to points in AL, FL, KY, MS, NC, SC, and TN. Petitioner by this instant petition requests that the phrase "set-up," be deleted from the commodity description.

MC 106222 and (Sub-5) (M1F) (Notice of Filing of Petition To Modify Certificate), filed June 8, 1978. Petitioner: WALLACK FREIGHT LINES, INC., 65 Court Street, Copaigue, NY 11726. Representative: Robert Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Petitioner holds motor *common carrier* certificates in MC 106222 and Sub-5 issued September 28, 1971, and November 16, 1971, respectively. MC 106222 authorizes transportation, over irregular routes, as pertinent, of: *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), between New York, NY, on the one hand, and, on the other, points in Nassau and Suffolk Counties, NY. MC 106222 (Sub-5) authorizes transportation, over irregular routes, as pertinent, of: *General commodities* (except conduit, carbonated beverages, carbonated beverage containers and empty bottles, classes A and B explosives, commodities in bulk, those of unusual value, commodities requiring special equipment), between New York, NY, on the one hand, and, on the other, points in Bergen Essex, Hudson, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, and Union Counties, NJ.

By the instant petition, petitioner seeks to modify the above authority by adding points in Fairfield County, CT, as base points to the territorial description in each certificate.

MC 126458 (Sub-9) (M1F) (Notice of Filing of Petition To Modify Permit), filed June 26, 1978. Petitioner: NICHOLAS J. ASCENZO, INC., 1544 Boone Avenue, Bronx, NY 10460. Representative: Morton Kiel, 5 World Trade Center, New York, NY 10048. Petitioner holds a motor *contract carrier* permit, in MC 126458 (Sub-9), issued May 23, 1978, authorizing transportation, over irregular routes, of: *Iron and steel articles*, as described in appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 and 276, between Wallingford, CT, Claymont, DE, Sayreville, NJ, Phoenixville, PA, and Chesapeake, VA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, under a continuing contract(s) with Yale Steel Corp., of Wallingford, CT, and Cosid, Inc., of New York, NY.

By the instant petition, petitioner seeks to (1) amend the permit to authorize service to be performed under the additional contracts with Grand Iron Works, Inc., and New Jersey Steel and Structual Corp., and (2) amend the territorial description to include Bethlehem, PA, as a base point.

MC 129747 (Sub-3) (M1F) (Notice of Filing of Petition To Modify Certificate), filed June 28, 1978. Petitioner: CASCO SERVICES, INC., 47 Chetwood Terrace, Fanwood, NJ 07023. Representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC 129747 (Sub-3) issued November 3, 1976, authorizing the transportation, over irregular routes, of: *General commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment), in containers, between the facilities of the ConRail, located at (1) points in that portion of the New York, NY, Commercial Zone, as defined in Commerical Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt zone"), and (2) Somerville, NJ, on the one hand, and, on the other, points in Middlesex, Monmouth, Ocean, and Somerset Counties, NJ, restricted to the transportation of traffic having a prior or subsequent movement by rail.

By the instant petition, petitioner seeks to have the restriction read: Restricted to the transportation of shipments having a prior or subsequent movement by rail or water.

MC 133591 (Sub-27) (M1F) (Notice of Filing of Petition To Modify Certificate), filed June 9, 1978. Petitioner:

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. Petitioner holds a motor *common carrier* certificate in MC 133591 (Sub-27), issued May 10, 1978, authorizing transportation over irregular routes of: *Feed, feed ingredients, drugs, and insecticides* (except in bulk) from Lee's Summit, MO, to points in ID, MT, OR, WA, and WY.

By the instant petition, petitioner seeks to include in the commodity description, pesticides, animal care products, breading compounds, and advertising materials.

MC 127653 (Sub-1) (M1F) (Notice of Filing of Petition To Modify Certificate), filed June 23, 1978. Petitioner: TAN LINE, INC., 2 Johnsfield Court, Huntington Station, NY 11745. Representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds motor *common carrier* authority in MC 127653 (Sub-1), issued March 31, 1972, authorizing transportation over irregular routes, as pertinent, of: *Luggage and such personal property usually carried by airline passengers,* between Kennedy and LaGuardia Airports, New York, NY, Newark Airport, Newark, NJ, and Teterboro Airport, at or near Teterboro, NJ, on the one hand, and, on the other, points in NJ, NY, CT, RI, MA, and PA.

By the instant petition, petitioner seeks to include, "parcels usually carried or shipped on airlines", in the commodity description.

MC 139495 (Sub-164)(M1F) (Notice of Filing of Petition To Modify Certificate To Add Three Destination Points), filed June 14, 1978. Petitioner: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 East 8th Street, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Petitioner was issued a Certificate of Public Convenience and Necessity October 31, 1977, authorizing it to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *bags and scrap paper,* from Orange, TX, to Birmingham, AL, Atlanta, GA, Chicago, IL, Wichita, KS, Florence and Louisville, KY, New Orleans, LA, Secaucus, NJ, Buffalo and Rochester, NY, Cleveland, OH, Philadelphia and Pittsburgh, PA, Madision and Milwaukee, WI, and DC.

By the instant petition, petitioner seeks to add Kansas City and St. Louis, MO, and Oklahoma City, OK, as destination points.

MC 141947 (Sub-2) (M1F) (Notice of Filing of Petition To Modify Permit), filed June 20, 1978. Petitioner: GEORGE HALL, d.b.a. GEORGE HALL TRUCKING, CO., 8260 Berry Avenue, Sacramento, CA 95828. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Petitioner presently holds a Permit in Docket No. MC 141947 (Sub-2), issued May 19, 1978, as a *contract carrier,* by motor vehicle, over irregular routes, authorizing the following transportation on behalf of Owens-Illinois, Inc.: (4) (a) *Empty glass bottles and knocked-down cartons,* from Oakland and Tracy, CA, to Reno, NV; (b) *Empty plastic bottles,* from San Jose, CA, to Reno, NV. Restriction: The authority granted in (4) above is limited to a transportation service to be performed under continuing contract(s) with Owens-Illinois, Inc., of San Mateo, CA.

By the instant petition, petitioner seeks to add the city of Vernon, CA, as an origin point in section (4)(a) of his Permit, which authorize the transportation of "empty glass bottles and knocked-down cartons," and the city of Fairfield, CA, as an origin point in section (4)(b) of his Permit, which authorizes the transportation of "empty plastic bottles," under a continuing contract with Owens-Illinois, Inc.

MC 142679 (Sub-1) (M1F) (Notice of Filing a Petition To Modify Permit), filed June 19, 1978. Petitioner: S. H. MITCHELL, d.b.a. UNITED TRUCK LINES, P.O. Box 8596, Greensboro, NC 27410. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Petitioner holds motor *contract carrier* permit No. MC 142679 (Sub-1), issued January 23, 1978, authorizing transportation, over irregular routes, of: *Plastic and rubber foam, cellular expanded and sponge pads and padding,* from Cornelius and Greensboro, NC, to Flint and Port Huron, MI; restricted to operations limited to a transportation service to be performed under a continuing contract or contracts with Fisher Body Division, General Motor Corp., of Warren, MI. By the instant petition, petitioner seeks to modify the above authority by (1) adding Wallace, NC, as an origin point and (2) by adding the transportation of return or rejected shipments of plastic and rubber foam, cellular expanded and sponge pads, and padding, from Flint and Port Huron, MI, to Cornelius, Greensboro, and Wallace, NC.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

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 a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Such pleading shall comply with special rule 247(e) 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 copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 9291 (Sub-3) (republication), filed December 20, 1977, published in the FEDERAL REGISTER issue of February 16, 1978, and republished this issue. Applicant: CARROL BALL, 312 East Market, Box 53, Centerville, KS 66014. Representative: Clyde N. Christey, 514 Capitol Federal Building, Topeka, KS 66603. A decision of the Commission, Review Board No. 2, decided July 31, 1978, and served August 10, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of: *Iron and steel articles,* from the facilities of Brown-Strauss Corp., a division of Azcon, located at or near Kansas City, KS, to points in CO in and east of Jackson, Larimer, Boulder, Gilpin, Clear Creek, Park, Lake, Chaffee, Saquache, Hinsdale, San Juan, and Archuleta Counties, CO, restricted against the transportation of: (1) Those commodities described in *Mercer Extension-Oil Field Commodities,* 74 M.C.C. 459, 543 (1946), (2) those commodities described in *Roy L. Jones, Inc., Ext.-Earth Drilling Equipment,* 103 M.C.C. 823, 832 (1967); and (3) heavy machinery, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to rephrase the territory description, and add a restriction.

MC 75627 (Sub-1) (republication), filed October 7, 1977, published in the FEDERAL REGISTER issue of November 3, 1977, and republished this issue. Applicant: PERILLO MOTOR LINES, INC., 499 Central Avenue, New Providence, NJ 07974. Representative: Robert B. Pepper, 168 Woodbridge Avenue,

Highland Park, NJ 08904. A Decision of the Commission, Review Board No. 2, decided July 31, 1978, and served August 10, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Electrical equipment, fittings, and fixtures,* and (2) *materials, supplies, and equipment* used in the manufacture of the commodities in (1) above (except commodities in bulk), (a) between New York, NY, and points in Morris County, NJ, on the one hand, and, on the other, points in CT, ME, MA, NH, NY (except New York City and points in Westchester, Nassau, and Suffolk Counties), RI, and VT, and (b) between points in Rockland County, NY, and Bergen, Passaic, Essex, and Hudson Counties, NJ, on the one hand, and, on the other, points in CT, ME, MA, NH, NY (except New York City and points in Westchester, Nassau, and Suffolk Counties), RI, and VT, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 128270 (Sub-20) (republication), filed October 4, 1976, published in the FEDERAL REGISTER issue of November 4, 1976, and republished this issue. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. A Decision of the Commission, Division 2, decided August 3, 1978, and served August 10, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Plastic pipe, plastic conduit, plastic and iron fittings and connections, valves, hydrants and gaskets* (except commodities in bulk in tank or hopper-type vehicles), from the facilities of Hurlbut Plastic Pipe Co., located at or near Madison, WI, to points in AR, CO, IL, IN, KS, KY, MI, MO, MT, NE, NM, OK, TN, TX, and WY, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 135760 (Sub- 10 and 21) M1 (republication of petition for modification of permits), filed November 28, 1977, published in the FR issue of February 9, 1978, and republished this issue. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Julius Schaumberg (same address as applicant). A decision of the Commission, Review Board No. 3, decided July 26, 1978, and served August 8, 1978, finds that the present and future public convenience and necessity require modification of Permit No. MC 135760 (Sub-10), issued December 23, 1976, and Permit No. MC 135760 (Sub-21), issued September 15, 1977, authorizing transportation over irregular routes, (1) *Pork products,* in vehicles equipped with mechanical refrigeration, or in bulk, in tank vehicles, from Detroit and Grand Rapids, MI, to points in the United States (except AK and HI), restricted against the transportation of pork products to or from the facilities of Vlasic Foods, Inc., located at or near Greenville, MS; and (2) *materials, equipment, and supplies* used in the operation of a packing house, from points in the United States (except AK and HI), to Detroit and Grand Rapids, MI, under a continuing contract or contracts with Frederick & Herrud, Inc., its subsidiary corporation, Herrud Smoked Meats, Inc., and Crown Packing Co., and its divisions Herrud & Co., Division and Herco Processing Division. Petitioner will be consistent with the public interest and the national transportation policy, is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 144214 (republication), filed January 12, 1978, published in the FR issue of February 24, 1978, and republished this issue. Applicant: ENERGY EXPRESS, INC., 2101 Monon Avenue, New Albany, IN 47150. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. A decision of the Commission, Review Board No. 2, decided August 2, 1978, and served August 14, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Cellulose insulating materials and equipment* used in the application of such materials, from the facilities of Weathercheck, Inc., at New Albany, IN, to points in IL, KY, TN, OH, MI, PA, MO, WV, VA, AR, NY, NJ, NC, SC, GA, AL, and MS; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of cellulose insulation materials (except commodities in bulk), from points in LA, FL, TX, MN, WI, KY, TN, OH, MI, PA, MO, WV, VA, AR, NY, NJ, NC, SC, GA, AL, and MS, to the facilities of Weathercheck, Inc., and Service Sales, Inc., at or near New Albany, IN, under continuing contracts with Weathercheck, Inc., Service Sales, Inc., and Insulation Supply, Inc., all of New Albany, IN, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of IL and the deletion of IN as a destination point in part (1) above.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

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 to 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(e)(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 interest 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 a 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. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(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 decision 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.

REFERENCE NOTICE—CASES SET FOR HEARING

The following proceedings have been set for hearing on October 10, 1978 (4 days), at 9:30 a.m. Local Time, at Denver, CO, in a hearing room location to be later designated:

(1) MC 32882 (Sub-95F), filed June 22, 1978, MITCHELL BROS. TRUCK LINES, Portland, OR, previously noticed in Decisions Volume No. 18, in the FR issue of August 15, 1978;

(2) MC 59531 (Sub-107F), filed May 31, 1978, AUTO CONVOY CO., Dallas, TX, previously noticed in Decisions Volume No. 19, in the FR issue of August 17, 1978;

(3) MC 74321 (Sub-144F), filed June 26, 1978, B. F. WALKER, INC., Denver, CO, previously noticed in Decisions Volume No. 20, in the FR issue of August 22, 1978;

(4) MC 105984 Sub-20F), filed June 7, 1978, JOHN B. BARBOUR TRUCKING CO., Iowa Park, TX, previously noticed in Decisions Volume No. 20, in the FR issue of August 22, 1978;

(5) MC 119988 (Sub-152F), filed June 30, 1978, GREAT WEATERN TRUCKING CO., INC., Lufkin, TX, previously noticed in Decisions Volume No. 21, in the FR issue of August 24, 1978; and

(6) MC 24078 (Sub-833F), filed July 6, 1978, SCHWERMAN TRUCKING CO., Milwaukee, WI, previously noticed in Decisions Volume No. 19, in the FR issue of August 17, 1978.

MC 52709 (Sub-349F), filed July 24, 1978. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay and lignite coal* (except commodities in bulk), (1) from the facilities of American Colloid Co., in (a) Phillips County, MT, (b) Butte County, SD, and (c) Crook and Weston Counties, WY, to points in CA, CO, IA, ID, IL, IN, KS, MI, MN, MO, MT, NE, ND, NV, OH, OR, SD, UT, WA, WI, and WY, and (2) from the facilities of American Colloid Co., in Big Horn County, WY, to points in CA and WA. Hearing: October 10, 1978 (4 days), at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.

MC 68100 (Sub-21F), filed July 3, 1978. Applicant: D. P. BONHAM TRANSFER, INC., 318 South Adeline, P.O. Drawer G, Bartlesville, OK 74003. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay and lignite coal*, from the facilities of American Colloid Co., in (a) Phillips County, MT, (b) Big Horn County, WY, and (c) Crook County, WY, to points in AR, CO, KS, LA, MS, MO, NM, OK, and TX; and (2) *lignite coal*, from the facilities of American Colloid Co., in Bowman County, ND, to points in LA, NM, OK, and TX, restricted in (1) and (2) above to the transportation of traffic originating at the named origin facilities. Hearing: October 10, 1978 (4 days), at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.

MC 97429 (Sub-8F), filed July 13, 1978. Applicant: ELK VALLEY MOTOR EXPRESS, INC., 1533 Hansford Street, Charleston, WV 25311. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Authority is sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over regular routes, between Parkersburg, WV, and Spencer, WV: From Parkersburg over U.S. Hwy 21 to the intersection of U.S. Hwy 21 and WV Hwy 14 near Mineralwells, WV; thence in a southeasterly direction over WV Hwy 14 to Spencer, WV, and return over the same route, serving all intermediate points. Irregular routes: (1) Between Grantsville, WV, and a 10-mile radius thereof, on the one hand, and, on the other, Spencer, WV; (2) between Grantsville, WV, and a 10-mile radius thereof, on the one hand, and, on the other, points in Smithville, Washburn, Harrisville, and Ellenboro, WV.

NOTE.—The purpose of this application is to convert a Certificate of Registration, which applicant seeks to acquire in a related application filed in MC-FC-77761, to a Certificate of Public Convenience and Necessity. (Hearing site: Columbus, OH.)

MC 113434 (Sub-91F), filed March 14, 1978, and previously noticed in the FEDERAL REGISTER issue of May 4, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), (1) from Frankfort, IN, to points in MI, KY, OH, and WV, and (2) from Rochelle, DeKalb, and Mendota, IL, to points in MI, OH, and that part of PA on and west of U.S. Hwy 15, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations.

NOTE.—This republication adds OH as a destination in part (1) and indicates the origin and destination restriction. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-325), filed January 4, 1978, and previously noticed in the FEDERAL REGISTER issue of February 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors, wines, and malt beverages* (except in bulk in tank vehicles), (1) from Chicago, Lemont, Peking, Peoria, and Plainfield, IL; Lawrenceburg, IN; Bardstown, Clermont, Frankfort, Louisville, and Owensboro, KY; Allen Park and Detroit, MI; New York, NY; Cincinnati, OH; and Schenley, PA, to Dodge City, Independence, Kansas City, Salina, Topeka, and Wichita, KS; and Columbia and North Kansas City, MO; and (2) from St. Louis, MO, to Dodge City, KS.

NOTE.—Common control may be involved. This correction includes Dodge City, KS; and Columbia, MO, as destination points.

MC 115826 (Sub-305F), filed April 7, 1978, and previously noticed in the FEDERAL REGISTER issue of July 6, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, P.O. Box 5088 T.A., Denver, CO 80217. Representative: Howard Gore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from points in CO, to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI). (Hearing site: Denver, CO.)

NOTE.—This republication indicates that traffic is destined to the Western United States.

MC 115904 (Sub-108F), filed June 26, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite and lignite*, (a) from points in Big Horn County, WY, to points in OK, LA, TX, CA, and AZ; (b) from Gascoyne, ND, and points in Phillips County, MT, and Crook County, WY, to points in OK, LA, TX, CA, NM, and AZ; (c) from points in Crook and Big Horn Counties, WY, and Phillips County, MT, to ports of entry on the international boundary line between the United States and Canada in MT, restricted to the transportation of traffic destined in foreign commerce; (d) from Denver, CO, to points in OK, LA, TX, NM, and AZ, restricted to the transportation of traffic having a prior movement in interstate commerce by truck or rail; and (2) *bentonite, lignite, and foundation water impedance board*, from Belle Fourche, SD, to points in CA, TX, and LA. Hearing: October 10, 1978 (4 days), at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.

NOTE.—Applicant states that shipments in foreign commerce are destined to points in the Provinces of Alberta and Saskatchewan, Canada.

MC 119765 (Sub-55F), filed July 18, 1978. Applicant: EIGHT WAY EXPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay and lignite coal* (1) from the the facilities of American Colloid Co., in Big Horn and Weston Counties, WY, and Bowman County, ND, to points in OK, TX, and LA, and (2) from the facilities of American Colloid Co., in Phillips County, MT, and Crook County, WY, to points in CO, NE, OK, TX, LA, AR, MO, IL, IA, WI and MN. Hearing: October 10, 1978 (4 days), at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.

MC 121658 (Sub-12F), filed April 3, 1978, and previously noticed in the FEDERAL REGISTER issue of June 22, 1978. Applicant: STEVE D. THOMPSON, 1205 Percy Street, Winnsboro, LA 71295. Representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Shreveport, LA, and Marshall, TX, over U.S. Hwy 80 (also Interstate Hwy 20) serving all intermediate points. (Hearing site: Shreveport, LA.)

MC 136008 (Sub-100F), filed July 28, 1978. Applicant: JOE BROWN CO., INC., 20 Third Street NE., Ardmore, OK 73401. Representative: John Tipsword, 8005 South I-35, Suite 102, Oklahoma City, OK 73149. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay and lignite coal*, (1) from the facilities of American Colloid Co., at or near (a) Belle Fourche, SD, and (b) Upton and Lovell, WY, to points in AZ, CA, LA, NM, OK, and TX, and (2) from the facilities of American Colloid Co., in (a) Crook County, WY, and (b) Phillips County, MT, to points in AZ, AR, CA, CO, IA, KS, LA, MO, NV, NM, OK, OR, TX, UT, and WA. Hearing: October 10, 1978 (4 days), at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.

MC 139274 (Sub-4F), filed April 14, 1978. Applicant: THE DANIEL CO., OF SPRINGFIELD, a corporation, 419 East Kearney, Springfield, MO 65803. Representative: Turner White, 910 Plaza Towers, Springfield, MO 65804. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) Such *commodities* as are used by grocery and food business houses, and (2) *materials, supplies, and equipment* used in the manufacture, packaging, distribution of the commodities named in (1) above (except commodities in bulk), between Springfield, MO, on the one hand, and, on the other, points in LA, NM, and TX, under continuing contract(s) with R. T. French Co. (Hearing site: Kansas City, or St. Louis, MO.)

NOTE.—Applicant holds *common carrier* authority in MC 143085, therefore, dual operations may be involved.

MC 144646F, filed April 14, 1978. Applicant: BLACK & WHITE CAB, INC., d.b.a. YPSILANTI TRANSPORTATION SERVICE, P.O. Box 487, Ypsilanti, MI 48197. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automible parts, parts and materials*, used in the manufacture, production, and assembly of automobiles, and *component parts*, between the facilities of the General Motors Corp., located, at or near Lansing, MI, on the one hand, and, on the other, the Detroit Metropolitan Wayne County Airport, located at or near Romulus, MI, and the Willow Run Airport, located, at or near Ypsilanti, MI, restricted to the transportaion of traffic having a prior of subsequent movement by air, weighing in the aggregate not more than 5,000 pounds, from one consignor at one location to one consignee at one location in a single day. (Hearing site: Lansing or Detroit, MI.)

MC 144760F, filed May 15, 1978, published in the FEDERAL REGISTER issue of July 13, 1978, and republished, as corrected, this issue. Applicant: HITTMAN TRANSPORT SERVICES, INC., 2700 Keslinger Road, Geneva, IL 60134. Representative: Anthony C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Radioactive waste*, in shipperowned containers permanently mounted on shipperowned trailers, from Zion Nuclear Plant, at Zion, IL, Dresden Nuclear Station, at Cordova, IL, Duane-Arnold Energy Center, at Palo, IA, and Donald C. Cook Nuclear Station, at Bridgman, MI, to Barnwell, SC, Beatty, NV, and Richland, WA; and (2) *radioactive shipping containers*, from Barnwell, SC, to the origin points named in (1) above, under a continuing contract with Hittman Nuclear and Development Corp., of Columbia, MD. (Hearing site: Washington, DC, or Chicago, IL.)

NOTE.—This republication is to correctly state part (2) above.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers of motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An Original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests 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.

MC-F-13670. (Supplement) (WINTERS TRUCK LINES, INC.—Purchase (portion)—ROCK ISLAND MOTOR TRANSIT CO.) published in

the July 27, 1978 issue of the FEDERAL REGISTER. (Previous publication inadvertently omitted the following note: MC 57393 (Sub-7F) is a directly related matter.)

MC-F-13682F. Authority sought for continuance of control by LOWER LAKES CARRIER, INC. (a motor carrier), 1451 East 21st Street, Ashtabula, OH 44004, of CONTAINER TRANSPORT, INC. (noncarrier), 630 Terminal Tower Building, Cleveland, OH 44113, and for acquisition by Hugh O'Neill IV, 562 State Street, Conneaut, OH 44030, of control of such rights through the transaction. Applicant's attorney: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Operating rights sought to be continued in control: CONTAINER TRANSPORT, INC., is not a motor carrier at this time. However, it has pending before the Commission an Application for Authority To Operate as a contract carrier in the transportation of empty steel drums from the plant site of Republic Steel Corp. at Nitro, WV to points in IN, KY, OH, and TN, all under continuing contract or contracts with Republic Steel Corp. (See MC 144342 (Sub-2F), filed March 30, 1978.) Temporary authority has been granted under Decision dated June 12, 1978 in MC 144342 (Sub-1TA). Vendee is authorized to operate as a *contract carrier* in CT, IL, IN, KY, MD, MA, MI, MO, NJ, PA, WV, NY, and OH. Application has not been filed for temporary authority under section 210a(B).

MC-F-13697F. Authority sought for control by HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485 of LOGAN MOTOR LINES, INC., P.O. Box 30038, 2829 Mays Street, Amarillo, TX 79120, through purchase of stock and for acquisition by W. Henry Andersen (same address as applicant), of control of such carrier through the transaction. Applicant's attorney: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005, and Ronald D. Alley, 11th Floor, Plaza One, Amarillo, TX. Operating rights to be controlled are issued under MC 139091, authorizing operations as a contract carrier described generally and with certain exceptions over irregular routes as follows: (1) *Vacuum bottles and fillers, lunch and picnic boxes, and kits, containers, travel bags, camping equipment, stoppers, plastic articles, jugs, cooling boxes and chests, tents, display racks, and insulating material* and materials, parts, and supplies used in the manufacture or distribution of the above-named commodities (except liquid commodities in bulk), between the facilities of King Seeley Thermos Co., at or near Macomb, IL, on the one hand, and, on the other, the facilities of King Seeley Thermos Co., at or near Norwich, CT, under a continuing contract, or contracts with King Seeley Thermos Co. (2) *Plastic articles,* from Ashland, OH, to the facilities of King Seeley Thermos Co., at or near Macomb, IL, under a continuing contract, or contracts with King Seeley Thermos Co. (3)(a) *Vacuum bottles and fillers, lunch and picnic boxes, and kits, containers, travel bags, camping equipment, stoppers, plastic articles, jugs, cooling boxes and chests, tents, display racks, and insulating material,* from the plantsite and storage facilities of King Seeley Thermos Co., at or near Macomb, IL, to points in DE, IN, KY, MD, MI, NJ, NY, OH, PA, VA, WV, and DC. (b) From the facilities of King Seeley Thermos Co., located at or near Norwich, CN and Macomb, IL, to points in AZ, CA, CO, NM, NV, UT, and WY. (c) From the plantsite and storage facilities of King Seeley Thermos Co., at or near Macomb, IL, to points in KY, LA, TN, NC, SC, GA, FL, AL, and MS. (d) From the facilities of King Seeley Thermos Co., at or near Norwich, CT, to points in AL, AR, FL, GA, LA, MN, MS, OK, TN, TX, and WI, under a continuing contract, or contracts with King Seeley Thermos Co. (4) *Meat, meat products and meat byproducts and articles distributed by meat packing houses,* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides, skins, and pieces therefrom and commodities in bulk in tank vehicles), from the plantsite and storage facilities used by Swift Fresh Meats Co., at or near Cactus (Moore County), TX, to points in the United States except AL and HI), and *such commodities as are used by meat packers in the conduct of their business* as described in section D of appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides, skins, and pieces therefrom and commodities in bulk, and tank vehicles), from points in the United States (except AL and HI) to the plantsite and warehouse facilities of Swift Fresh Meats Co., at or near Cactus (Moore County), TX, under a continuing contract, or contracts with Swift Fresh Meats Co. (5)(a) *Meats, meat products and meat byproducts and articles distributed by meat packing houses,* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides and commodities in bulk in tank vehicles), from the facilities of Swift Fresh Meats Co., at or near Grand Island, NE, to points in CT, DE, ME, MD, MA, NJ, NH, NY, PA, RI, VT, VA, WV, and DC. (b) From the plantsite and storage facilities of Swift Fresh Meats Co., Division of Swift & Co., at or near Glenwood, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, under a continuing contract, or contracts with Swift Fresh Meats Co. Vendee is authorized to operate as a contract carrier in all the States in the United States (except AL and HI). Application has been filed for temporary authority under section 210a(b) of the act.

MC-F-13703F. Authority sought for control by EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE, 68107, of up to 45 percent of the stock of (B) TRI-VALLEY EXPRESS, INC., 3200 West Second Street, Grand Island, NE 68801; and that EIGHT WAY XPRESS, INC. assume control and management of (BB) SERVICE OIL CO., 3200 West Second Street, Grand Island, NE 68801. It is proposed that (1) TRI-VALLEY EXPRESS, INC., acquire all of the stock of SERVICE OIL CO.; (2) that EIGHT WAY XPRESS, INC. acquire up to 45 percent of the stock of TRI-VALLEY EXPRESS, INC.; and (3) that EIGHT WAY XPRESS, INC. assume control and management of SERVICE OIL CO. Applicants Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE, 68106. Operating rights sought to be controlled: (B) TRI-VALLEY EXPRESS, INC., is a noncarrier holding company; (BB) SERVICE OIL CO. is a motor common carrier under MC 99667, and is authorized for the transportation of interstate traffic throughout the State of NE. EIGHT WAY XPRESS, INC. is a motor common carrier operating under MC 119765 and Subs, and is authorized to operate in the States of CO, CT, DE, DC, GA, IL, IN, IA, KS, ME, MD, MA, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SD, VT, VA, WI, and WY.

MC-F-13705F. Authority sought for purchase by K. G. MOORE, INC., 9 Park Avenue, Hudson, NH 03051, of the operating rights of W. T. COWAN, INC., 820 South Oldham Street, Baltimore, MD 21224, and for the acquisition by Robert F. Anderson, Jr. of 37 Rockwood Road, Norfolk, MA 02056, and James J. Anderson of Northern Pines Road, Vineyard Haven, MA 02568, of control of such rights through the purchase. Applicants attorneys: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181 and John J. Ghingher, III, 10 Light Street, 19th Floor, Baltimore, MD 21202. Operating rights sought to be transferred: *General commodities,* with exceptions, and *Commodities requiring refrigerated service,* over regular routes, between Baltimore, MD, and Alexandria, VA, serving the intermediate and off-route points of Ca-

tonsville, Ellicott City, Westminster, and Rockville, MD, Washington, DC, points in MD within 3 miles of Washington, DC, points within 10 miles of Baltimore, points in Arlington and Fairfax Counties, VA, and points on U.S. Hwy 1 between Baltimore and Washington: From Baltimore over U.S. Hwy 1 to Alexandria, and return over the same route. From Baltimore over U.S. Hwy 40 to Ellicott City, MD, then over U.S. Hwy 29 to Washington, DC, and then over U.S. Hwy 1 to Alexandria, and return over the same route. Between Baltimore, MD, and New York, NY, serving the intermediate and off-route points of Bel Air, Conowingo, Aberdeen, Havre de Grace, and Elkton, MD, Oxford, Coatesville, Kennett Square, and Lancaster, PA, Lambertville, Deepwater, Carneys Point, Penns Grove, and Hightstown, NJ, Baltimore, MD, points within 10 miles of Baltimore, Philadelphia, PA, points in PA and DE within 25 miles of Philadelphia, points in NJ within 10 miles of Philadelphia, Trenton, NJ, points in NJ within 10 miles of Trenton, and points in those parts of NY and NJ bounded by a line beginning at Fort Lee, NJ, and extending northwest to Englewood, NJ, then west to North Haledon, NJ, then southwest via West Orange, Plainfield, and Bound Brook, NJ, to Manville, NJ, then east via New Brunswick, NJ, to South Amboy, NJ then along the Atlantic coast line to Long Beach, NY, then north via Floral Park, NY, to New Rochelle, NY, then west to Yonkers, NY, then south along the east bank of the Hudson River to the George Washington Bridge, and then across the Hudson River to the point of beginning: From Baltimore over U.S. Hwy 1 to Philadelphia, PA (also from Baltimore over U.S. Hwy 40 to junction U.S. Hwy 13, then over U.S. Hwy 13 to Philadelphia), then over U.S. Hwy 13 to Trenton, NJ, then over NJ Hwy 27 to Newark, NJ, and then over U.S. Hwy 1 to New York, and return over the same route. From Baltimore over U.S. Hwy. 40 to junction U.S. Hwy 130, then over U.S. Hwy 130 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to New York, and return over the same. Between Bel Air, MD, and Aberdeen, MD, serving no intermediate points: From Bel Air over Maryland Hwy 22 to Aberdeen, and return over the same route. For Operating Convenience Only: *General commodities* and *Commodities requiring refrigerated service*, between West Grove, PA, and Elkton, MD, serving no intermediate points: From West Grove over Pennsylvania Hwy 841 to the Pennsylvania-Maryland State line, then over Maryland Hwy 280 via Fair Hill, MD, to Elkton, and return over the same route. Between Oxford, PA, and North East MD, serving no intermediate points: From Oxford over Pennsylvania Hwy 42 to the Pennsylvania-Maryland State line, then over Maryland Hwy 272 via Calvert, MD, to North East, and return over the same route. Between junction U.S. Hwy 1, and Maryland Hwy 801, and North East, MD, serving no intermediate points: From junction U.S. Hwy 1 and Maryland Hwy 801, over Maryland Hwy 801 to junction Maryland Hwy 273, then over Maryland Hwy 273 to junction Maryland Hwy 272, and then over Maryland Hwy 272 to North East, and return over the same route. Between Rising Sun, MD, and junction Maryland Hwys 274 and 272, serving no intermediate points: From Rising Sun over Maryland Hwy 274 to junction Maryland Hwy 272, and return over the same route. Between Conowingo, MD, and Perryville, MD, serving no intermediate points: From Conowingo over U.S. Hwy 222 to Perryville, and return over the same route. Between Bel Air, MD, and junction Maryland Hwy 24 and U.S. Hwy 40, serving no intermediate points: From Bel Air over Maryland Hwy 24 to junction U.S. Hwy 40, and return over the same route. Vendee is authorized to operate as a *common carrier* in ME, NH, VT, MA, RI, CT, NY, NJ, and PA. Application has been filed for temporary authority under section 210 a (b).

MC-F-13709F. Authority sought for purchase by GARRISON MOTOR FREIGHT, INC., Garrison Place, P.O. Box 1278, Harrison, AR 72601, a portion of the operating rights of T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408, and for acquisition of control of such rights by F. S. Garrison, also of Harrison, AR 72601, through the purchase. Applicants attorneys: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210; Jay C. Miner, P.O. Box 1278, Harrison, AR 72601 and Kenneth G. Thomas, P.O. Box 2550, Lubbock, TX 79408. Operating rights sought to be transferred: General commodities, as a *common carrier*, over regular routes, between Fayetteville, AR, and Berryville, AR, serving all intermediate points: From Fayetteville over AR Hwy 45 to junction AR Hwy 68, then over AR Hwy 68 to junction AR Hwy 21, and then over AR Hwy 21 to Berryville; and between Harrison, AR, and Gateway, AR, serving all intermediate points: From Harrison over U.S. Hwy 62 to Gateway, as more fully described in certificate No. MC 35320 (Sub-69). Vendee is authorized to operate pursuant to certificate No. MC 109324 as a *common carrier* in the States of AR, MO, TX, OK, KS, MS, and IL. Application has been filed for temporary authority under section 210a(b).

Operating Rights Application(s) Directly Related to Finance Proceedings

NOTICE

The following operating rights application(s) 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 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(e) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. 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 application.

MC 3504 (Sub-1F), filed July 13, 1978. Applicant: TIP-TOP TRUCKING, INC., 5 Baldarelli Court, Springfield, MA 01104. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, and except dangerous explosives, household goods, as defined in Practices of Motor Common Carriers of Household Goods (17 M.C.C. 467), commodities in bulk, and commodities requiring special equipment), from Bridgeport, CT to points in Hampden County, MA. (Hearing site: Bridgeport, CT.)

Note.—This application is filed as a directly related application to finance proceeding docketed MC-FC-77764. The purpose of this application is to eliminate the gateway of Thomasville, CT.

MC 57393 (Sub-7F), filed July 14, 1978. Applicant: WINTERS TRUCK LINES, INC., 2620 McCormick Street, Wichita, KS 67202. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (A) *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities

in bulk, and commodities requiring special equipment), (1) from Norwich over KS Hwy 42 to the junction of old KS Hwy 42 at a point at or near Milton, then over old KS Hwy 42 through Anness to the junction of the new KS Hwy 42 at or near Viola, then over KS Hwy 42 to Wichita, then over U.S. Hwy 54 to the junction of an unnumbered county road at a point located at or near unnumbered county road to the juction of KS Hwy 42, and return over the same route. Serving the following points as off-route points in connection with applicant's above requested authority: (a) The missile site "No. 6-A" at or near Anness, KS; (b) missile site "No. 13-A" at or near Norwich, KS; (c) Rago, KS, located on KS Hwy 14 at or near junction KS Hwy 14 and KS Hwy 42; (d) the Phillips Petroleum Pipe Line Co., at or near Rago, KS; (e) missile site "No. 7" at or near junction KS Hwy 42 and KS Hwy 14; (f) Adams, KS, located on KS Hwy 42 at or near Norwich, KS; and (g) missile site "H" at or near Conway Springs, KS. (2) From the junction KS Hwys 49 and 42 at or near Viola, KS, then over KS Hwy 49 to Conway Springs, and return over the same route. (3) From the junction of an unnumbered county road at or near Viola, then over unnumbered county road to Clearwater, then over an unnumbered county road to Bayneville, then over an unnumbered county road to the junction of an unnumbered county road located at or near Oatville, then over unnumbered county road to Wichita, and return over the same route. (4) From the junction of an unnumbered county road and KS Hwy 42 at a point at or near Milton, then over unnumbered county road to Milton, and return over the same route, serving all intermediate points along the above-described routes and off-route points within a 5-mile radius of Cheney, KS. (5) From the junction of old KS Hwy 42 at a point located at or near Milton, then over new KS Hwy 42 to the junction of old KS Hwy 42 at or near Viola, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (6) From the junction of new KS Hwy 42 and an unnumbered county road at or near Norwich, KS, then over unnumbered county road to Anness, and return over the same route, serving no intermediate points as an alternate route for operating convenience only. (7) From the junction of new KS Hwy 42 and an unnumbered county road at or near Bayneville, then over unnumbered county road to Haysville, then over unnumbered county road to Wichita, and return over the same route, serving all intermediate points. (8) Between points within a 9 mile radius of Cheney, KS as off-route points in connection with applicant's requested regular route operations. (B) *General commodities*, with no exceptions, (1) From Wichita, KS, over U.S. Hwy 81 to Wellington, KS, also from Wellington over U.S. Hwy 160 through Mayfield, Miland, Argonia, Danville, Harper, Attica, Sharon, Medicine Lodge, Lake City, Sun City, Belvidere, Wilmore, Coldwater, Protection and Sitka to Ashland; also from Harper over KS Hwy 14 to Anthony, also from Coldwater south over KS Hwy 1 to Buttermilk. (2) Serving as an alternate route for operating convenience only on the return to Wichita: From Coldwater over KS Hwy 1 to the junction of U.S. Hwy 54 then over U.S. Hwy 54 to Wichita, KS. (C) *General commodities*, with no exceptions, from Wichita, KS, over U.S. Hwy 81 to Wellington, Rome, South Haven, Drury, and Caldwell. (D) *General commodities*, with no exceptions, (1) From South Haven, KS, over U.S. Hwy 177 to Hunnewell, KS, and, return over the same route, (2) From South Haven, KS, over U.S. Hwy 166 to a county road, to Portland, KS, and return over county road to U.S. Hwy 166 then over U.S. Hwy 166 to Ashton, KS, and return over county roads to U.S. Hwy 166 then over U.S. Hwy 166 to Geuda Springs, KS, and return over county roads to U.S. Hwy 166, then over U.S. Hwy 166 to junction Interstate Hwy 35 (KS Turnpike) or U.S. Hwy 81. (3) As an alternate route: From Ashton, KS, over county road to Geuda Springs, KS, then over county road to Oxford, KS, then over U.S. Hwy 160 to Interstate Hwy 35 (KS Turnpike) or U.S. Hwy 81. (4) From Wellington, KS, over U.S. Hwy 81 to an unnumbered county road, then over unnumbered county road to Perth, KS, then over unnumered county roads to Corbin, KS; then over unnumered county road to junction U.S. Hwy 81. (5) As an alternate route for operating convenience only: From Wellington, KS, over U.S. Hwy 160 to junction with KS Hwy 49 then over KS Hwy 49 to Caldwell, KS. (6) Between Caldwell, KS, and Wichita, KS: From Caldwell over U.S. Hwy 81 to South Haven, KS, then over U.S. Hwy 166 to Interstate Hwy 35 (KS Turnpike), then over Interstate Hwy 35 (KS Turnpike) to Wichita, KS, including the servicing of the "Wellington Service Area" on Interstate Hwy 35 (KS Turnpike), serving all intermediate points. (E) *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 Wichita, KS, and Pratt, KS: From Wichita, KS, over U.S. Hwy 54 to Pratt, KS, and return over the same route, serving all intermediate points and the off-route points of Pratt Air Force Base at or near Pratt, KS; Coats, Sawyer, Zenda, Spivey, Nashville, and Isabel, KS. (2) Between Pratt, KS, and Medicine Lodge, KS: From Pratt, over U.S. Hwy 281 to Medicine Lodge and return over the same route. (3) Between South Haven, KS, and Arkansas City, KS: From South Haven, over U.S. Hwy 166 to Arkansas City, and return over the same route. (4) Between Wellington, KS, and Oxford, KS: From Wellington, over U.S. Hwy 160 to Oxford, and return over the same route. (5) Between Dalton's Corner at or near Wellington, KS, and junction KS Hwy 55 and U.S. Hwy 81, as an alternate route for operating convenience only: From Dalton's Corner at or near Wellington, KS, over KS Hwy 53 to Belle Plaine, KS, then over KS Hwy 55 to junction U.S. Hwy 81. (F) *General commodities*, (except those of unusual value, dangerous explosives, household goods as defined in "Practices of Motor Common Carriers of Household Goods", 17 MCC 467, commodities in bulk, commodities requiring special equipment) between Wichita, KS, and Leon, KS: From Wichita, over U.S. Hwy 54 and KS Hwy 96 to Augusta, KS, then over U.S. Hwy 54 and KS Hwy 96 to the junction of the same; then over KS Hwy 96 to Leon, KS; and return over the same route, serving all intermediate points, and the off-route points within a five-mile radius from the above described route. (Hearing site: Wichita, KS.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity, and is a directly related matter to MC-F-13670F published in a previous section of this FEDERAL REGISTER issue.

MC 126900 (Sub-1F), filed July 5, 1978. Applicant: ANTHONY D. FIAMINGO d.b.a. FIAMINGO MOVING & STORAGE CO., R.D. 3, Box 678, Mansfield, PA, 16933. Representative: Thomas F. X. Foley, Colts Neck Professional Plaza, State Hwy 34, Colts Neck, NJ 07722. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Household goods* (1) between Wellsboro, PA, and points in PA and NY within 25 miles of Wellsboro, PA, on the one hand, and, on the other, points in RI, CT, DE, IN, NC, and DC, and (2) between points in NY, NJ, OH, and MD, on the one hand, and, on the other, points in RI, CT, NY, NJ, MD, DE, OH, IN, NC, and DC.

NOTE.—This is a gateway elimination application directly related to an application filed by applicant under section 212(b) for authority to acquire the operating authority of W. D. Leeds Storage Warehouse, Inc. docketed MC-FC-77739. The gateway to be eliminated is the common points created by 25 miles within Wellsboro PA and the 25 mile radius of Williamsport, PA. (Hearing site: Philadelphia, PA.)

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of 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 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.

MOTER CARRIERS OF PROPERTY

MC 109324 (Deviation No. 9), GARRISON MOTOR FREIGHT, INC., P.O. Box 1278, Harrison, AR 72601, filed August 16, 1978. 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. Hwy 71 and AR Hwy 16, over U.S. Hwy 71 to Rogers, AR, then over U.S. Hwy 62 to Gateway, AR, then over AR Hwy 47 to the AR-MO State Line, then over MO Hwy 37 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 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. Hwy 71 and AR Hwy 16 over AR Hwy 16 to junction AR Hwy 74, then over AR Hwy 74 to junction AR Hwy 68, then over AR Hwy 68 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction U.S. Hwy 60 and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A58267, filed July 31, 1978. Applicant: HOBBS TRUCKING CO., 501 East Julianna Avenue, Anaheim, CA 92801. Representative: Fred H. Mackensen, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Certificate of Public Convenience and Necessity sought to operate *freight service*, as follows: Transportation of: (I) *General commodities* as follows: (A) Between all points and places within the Los Angeles Basin Territory described in Note A and within the San Diego Territory described in Note B and between said territories, serving all points and places on and within ten (10) miles laterally of Interstate Hwys 5 or 15 or U.S. Hwy 395. (B) Between all points and places within the territory described in paragraph A. above and Goleta, serving all points and places on and within ten (10) miles laterally of U.S. Hwy 101. (II) Fruits, fresh or green (not cold pack or frozen) as follows: (A) Between Santa Paula, Fillmore, Santa Susana, Placentia, Piru, Camarillo, Ojal, Ventura, Montalvo, Oxnard and Pt. Mugu, on the one hand, and Santa Ana and Ontario, on the other hand. (B) Between Excondidio, El Cajon, on the one hand, and Ontario, on the other hand. Except that pursuant to the authority herein granted, carrier shall not transport any shipments of: (1) Used household goods, personal effects and office, store and institution furniture, fixtures and equipement not packed in accordance with the crated property requirements set forth in item 5 of Minimum Rate Tariff 4-B. (2) Automobiles, trucks and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Newsprint paper and printing paper used in the publication of newspapers and other printed matter, in flat stock and in rolls, except within the Los Angeles Basin Territory. (4) Livestock, viz.: Barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. (5) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. (6) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (7) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (8) Logs. (9) Trailer coacher and campers, including integral parts and contents when the contents are within the trailer coach or camper. (10) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

Note A

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; then northeasterly along said county line to the point it intersects State Hwy 118, approximately 2 miles west of Chatsworth; easterly along State Hwy 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Los Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa, westerly along Redlands Boulevard to U.S. Hwy 99; northwesterly along U.S. Hwy 99 to the corporate boundary of the city of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Hwy 60; southeasterly along U.S. Hwys 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly, and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Hwy 74; westerly along State Hwy 74 to the corporate boundary of the city of Hemet; southerly, westerly, and northerly along said corporate boundary to the right-of-way of the Atchison, Topeka & Santa Fe Railway Co.; southwester-

ly along said right-of-way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Hwy 395; 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Hwy 395; southeasterly along U.S. Hwy 395 to the Riverside County-San Diego County boundary lines; westerly along said boundary line to the Orange County-San Diego County boundary lines; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

Note B

San Diego Territory includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Hwys 101 E and 101 W (4 miles north of La Jolla), then easterly to Miramar on State Hwy 395; then southeasterly to Miramar on State Hwy 395; then southeasterly to Lakeside on the El Cajon-Ramona highway; then southerly to Bostonia on U.S. Hwy 80; then southeasterly to Jamul on State Hwy 94, then due south to the International Boundary Line; west to the Pacific Ocean, and north along the coast to point of beginning.

Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Request for procedural information should be addressed to California Public Utilities Commission, California State Building, 350 McAllister Street, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 780593-CCT, filed August 2, 1978. Applicant: AUSTIN TUPLER TRUCKING, INC., 6570 Southwest 47th Court, Fort Lauderdale, FL 33314. Representative: Richard B. Austin, 5255 Northwest 87th Avenue, Miami, FL 33178. Certificate of Public Convenience and Necessity sought to operate a *freight service*, as follows: Transportation of (1) *coal*, and (2) *controlled substances such as marijuana, treated and untreated*, in mixed shipments, moving under the supervision and direction of governmental law enforcement agencies, Federal, State, county, or municipal, between all points in FL. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Building, 101 East Gaines Street, Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-9583, filed July 20, 1978. Applicant: JOSEPH J. MUNZIO, d.b.a. ALL COUNTY TRANSPORT, 162 Route 17K, Newburgh, NY 12550. Certificate of Public Convenience and Necessity sought to operate a *freight service*, as follows: Transportation of *general commodities*, between the Counties of Albany, Rensselaer, Greene, Columbia, Ulster, Dutchess, Orange, Putnam, Rockland, Westchester, Sullivan, and New York City. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, Building No. 5, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 43235, filed July 13, 1978. Applicant: TULSA MUSKOGEE FREIGHT LINES, INC., Route 1, Box 300, Sperry, OK 74073. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Certificate of Public Convenience and Necessity sought to operate a *freight service*, as follows: Transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Tulsa, OK, and Muskogee, OK, serving the intermediate points of Leonard, Stone Bluff, Haskell, and the off-route points of Yahola and Taft; from Tulsa via U.S. Hwy 64 to Muskogee and return via the same route; (2) between Tulsa, OK, and Muskogee, OK, serving no intermediate points, as an alternate route for operating convenience only; from Tulsa via the Muskogee Turnpike to Muskogee and return via the same route. Intrastate, interstate, and foreign commerce authority sought. Hearing: October 5, 1978, at 9 a.m. at the Oklahoma Corporation Commission, Jim Thorpe Building, Oklahoma City, OK 73105. Requests for procedural information should be addressed to Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, OK 73105, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5406 (Sub-3), filed July 17, 1978. Applicant: JACKSON EXPRESS, INC., 12 Conalco Drive, Jackson, TN 38301. Representative: Jerry B. Ross (same address as applicant). Certificate of Public Convenience and Necessity sought to operate a *freight service*, as follows: Transportation of *general commodities* (except household goods, classes A and B explosives, commodities in bulk, and commodities requiring special equipment), between Jackson, TN, and Paris, TN; from Jackson, TN, over U.S. Hwy 45 to its junction with U.S. Hwy 45-E, then over U.S. Hwy 45-E to its junction with U.S. Hwy 79, then over U.S. Hwy 79 to Paris, TN, and return over the same route, serving all intermediate points, and serving as off-route points all points on and in an area bounded as follows: Beginning at McKenzie, TN, southwards along TN Hwy 22 to its junction with U.S. Hwy 64; then along U.S. Hwy 64 to its junction with TN Hwy 128; then along TN Hwy 128 to its junction with TN Hwy 57; then along TN Hwy 57 to the TN and MS State line; then along the TN line to TN Hwy 18; then along TN Hwy 18 to its junction with U.S. Hwy 64; then along U.S. Hwy 64 to its junction with TN Hwy 76; then along TN Hwy 76 to its junction with TN Hwy 59; then along TN Hwy 59 to its junction with U.S. Hwy 51, then along U.S. Hwy 51 to its junction with TN Hwy 77 then along TN Hwy 77 to its junction with U.S. Hwy 79; then along U.S. Hwy 79 to McKenzie. All of the above service routes to be used in conjunction with all of applicant's existing authority. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date and time not yet fixed. Applicant requests it be held at Jackson, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1 102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-24411 Filed 8-30-78; 8:45 am]

[1505-01]

[Vol. No. 97]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In Federal Register Docket 78-17143 appearing on page 26846 in the issue of Thursday, June 22, 1978, on page 26857, in the middle column, in MC 139420 (Sub-31F), the 13th line should read, "* * * to AZ, CA, CO, ID, IL, IN, IA, KY.".

[1505-01]

[Notice No. 112]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FEDERAL REGISTER Docket 78-18663 appearing on page 29230 in the issue of Thursday, July 6, 1978, in the 3d column, in MC 134105 (Sub-28TA), the 16th line should read, "* * * [Green-] ville, MS, to points in AL, AR, CO, FL,".

[7035-01]

[Notice No. 709]

ASSIGNMENT OF HEARINGS

AUGUST 28, 1978.

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 125996 (Sub-56F), Road Runner Trucking, Inc., now being assigned for hearing on November 28, 1978 (1 day), at Los Angeles, CA, in a hearing room to be later designated.

MC 134460 (Sub-10), Market Express, Inc., now being assigned for hearing on November 29, 1978 (3 days), at Los Angeles, CA, in a hearing room to be later designated.

MC 128273 (Sub-286F), Midwestern Distribution, Inc.,

MC 124211 (Sub-320F), Hilt Truck Line, Inc., MC 114569 (Sub-207), Shaffer Trucking, Inc., now being assigned for hearing on December 4, 1978 (2 days), at Los Angeles, CA in a hearing room to be later designated.

MC 129857 (Sub-4), GRM, Inc. DBA Port Terminal Transport, Inc., now being assigned for hearing on December 6, 1978 (3 days), at Los Angeles, CA, in a hearing room to be later designated.

MC 113678 (Sub-713), Curtis, Inc., now being assigned for hearing on December 11, 1978 (5 days), at Los Angeles, CA, in a hearing room to be later designated.

MC-F-12895, Central Transport, Inc.—Purchase (portion)—Associated Transport, Inc., MC-F-12909, Duff Truck Line, Inc.—purchase (portion)—Associated Transport, Inc., directly related MC 14314 (Sub-24), Duff Truck Line, Inc., and MC-F-12912, United Trucking Service, Inc.—purchase (portion)—Associated Transport, Inc., directly related MC 70151 (Sub-50), United Trucking Service, now assigned Sepember 11, 1978, at Washington, D.C., is postponed to September 21, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-24589 Filed 8-30-78; 8:45 am]

[7035-01]

DENVER AND RIO GRANDE WESTERN RAILROAD CO.

AUGUST 28, 1978.

Exception under section (a), paragraph (1), part (v), Service Order No. 1332. Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Exception No. 1 decided August 22, 1978.

To: The Denver and Rio Grande Western Railroad Co.

By the Board:

There is a shipment of rail for Southern Pacific Transportation Co. to be loaded at Pueblo, Colo. Delay in production of the rail means the rail will not begin loading until the week of September 4, 1978. The specifications for the cars required to transport this traffic make it essential that the Denver and Rio Grande Western Railroad Co. commence immediate assembly of these cars.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of Service Order No. 1332, the Denver and Rio Grande Western Railroad Co. is authorized to assemble and hold Southern Pacific Transportation Co. and St. Louis Southwestern Railway Co. drop end gondolas and flat cars for loading rail at Pueblo, Colo., destined to Southern Pacific Transportation Co., regardless of the provisions of section (a)(2)(ii).

These cars shall become fully subject to all provisions of Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective: August 22, 1978.

Expires: September 30, 1978.

JOEL E. BURNS,
Chairman, Railroad Service Board.

[FR Doc. 78-24590 Filed 8-30-78; 8:45 am]

[7035-01]

[Notice No. 100]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

AUGUST 31, 1978.

Synopses of orders entered by Division 3 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 General Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 2, 1978. 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.

MC-FC-74907. By decision of May 15, 1978, Appellate Division 3 modified a restriction in certificate MC 70015 (Sub-6) issued August 12, 1974 to Alexander B. Pollock, d.b.a. JIFFY VANS, Indianapolis, IN. The authority in the certificate is as follows: Irregular routes: *Household goods* as defined by the Commission, and *furniture and fixtures* used in billiard parlors, bowling alleys, and retail liquor establishments, between Philadelphia, PA, on the one hand, and, on the other, points in NJ, DE, and NY. *Cut flowers*, from Philadelphia, PA, to Wilmington, DE, with no transportation for compensation on return except as otherwise authorized. The restriction imposed upon the certificate was modified to read in its entirety as follows: This certificate is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR 1065 may not be tacked or joined with the carrier's other irregular-route authority with the exception that the carrier is authorized to tack this certificate with letter notice MC 70015 (Sub-E2) to transport household goods, as defined by the Commission, between Indianapolis, IN, on the one hand, and, on the other, points in NY, NJ, and DE. The decision provides that interested parties may file petitions within 30 days of this publication. Alexander B. Pollock, applicant's representative, 6575 East Pleasant

Run Parkway, South Drive, Indianapolis, IN 46219.

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

[FR Doc. 78-24592 Filed 8-30-78; 8:45 am]

[7035-01]

[Notice No. 101]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 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 notices of the proposed transfer.

MC-FC-77714, filed June 16, 1978. Transferee: REYNOLDS CONTRACT HAULERS, INC., 1602 Sewanee Drive, West Columbia, SC 29169. Transferor: CRANEL B. HERNDON, 117 Hoover Street, Hampton, SC 29924. Representative: Harry S. Dent, P.O. Box 528, Columbia, SC 29202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate MC 109210 Sub Nos. 4, 112, 128, and 133, issued November 25, 1949, February 20, 1963, January 9, 1953, and April 29, 1960, respectively, as follows: *Fresh fruits and vegetables,* from Hampton County, SC to points in FL, GA, NC, VA, MD, NY, PA, and DC; *Cotton,* from Hampton County, SC to points in Chatham and Richmond Counties, GA and Mecklenburg County, NC; *cottonseed,* from Hampton County, SC to Augusta and Savannah, GA; *Fertilizer and cottonseed meal, cake, and hulls,* from Augusta and Savannah, GA to points in Beaufort, Colleton, Hampton, and Jasper Counties, SC; *Clay products,* from Augusta and Savannah, GA to Hampton, SC and points within 10 miles of Hampton; *Wood and plywood products* and *plastic products,* from Hampton SC to points in 17 States and DC; *Equipment, materials, and supplies used in the manufacture of plywood and plastics,* from Hampton SC to specified points in NC and GA; *Unfinished plywood,* from Belhayen and Hallsboro, NC, and Toomsboro, GA to Hampton, SC; *New furniture, uncrated,* from Hampton and Fairfax, SC to points in Eight States; *Electrical insulation material, materials, supplies and equipment,* and *empty shipping containers,* between Hampton, SC and Trafford, PA, and from Hampton, SC to East Pittsburgh, Sharon, and Victory, PA; *wooden doors,* from Varnville, SC to points in four States; *veneers,* from specified points in IN, MI, KY, MA, and MD to Hampton, SC, and from specified points in IN, MI, KY, and OH to Denmark, SC; *aluminum mouldings,* from Bryan, OH and Charlotte, MI to Hampton, SC; *urea,* from Belle, WV to Hampton, SC; *Laminated paper,* from Holyoke, MA to Hampton, SC; *Kraft paper,* from Franklin, VA to Hampton, SC; *Liquid glue,* from Fox, AL to Hampton, SC; *Vulcanized fiber,* from Wilmington, DE to Hampton, SC; *Wooden doors,* from Varnville, SC to points in Connecticut, Massachusetts, and Rhode Island; *Plastic products and articles,* from Hampton, SC to West Virginia; and *Shipping containers, skids and pallets,* from points in West Virginia to Hampton, SC. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77727, filed June 26, 1978. Transferee: DeBOER POTATO CO., INC., Glenwood, MN 56334. Transferor: MINN-CAL, INC., P.O. Box E, Mandan, ND 58554. Representative: Elmer B. Trousdale, Esq., 1700 First National Bank Building, St. Paul, MN 55101. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit MC 139110 (Sub-6), issued June 21, 1977, as corrected July 29, 1977, as follows: *Plastic bedding plant containers* and *plastic flower pots for use by horticulturists,* from the facilities of T. O. Plastics, Inc., at or near Little Falls, MN, to points in CA, CO, MT, OR, and WA. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77736, filed June 30, 1978. Transferee: WRECKER TRANSPORTERS, INC., 526 31st Street, Parkersburg, WV 26101. Transferor: FRAZIER MOTOR, INC., 2012 Gihon Road, Parkersbury, WV 26101. Representative: Orville L. Hardman, 500 Green Street, P.O. Box 31, Parkersburg, WV 26101. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate MC 118458 issued March 6, 1972, as follows: *Wrecked or disabled motor vehicles,* (except trailers designed to be drawn by passenger automobiles), by means of wrecker equipment only between Parkersburg, WV, on the one hand, and, on the other, points in KY, VA, WV, PA, and OH (except points in Gallia, Lawrence, and Scioto Counties). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77742, filed June 28, 1978. Transferee: GENERAL FREIGHTS, INC., P.O. Box 157, Hancock, MD 21750. Transferor: HAGERSTOWN MOTOR EXPRESS CO., INC., Route No. 6, MIddleburg Pike, Hagerstown, MD 21740. Representative: Edward N. Button, Esq., 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate MC 62499 and Subs-Nos. 3, 5, 6, 7, and 11, issued December 13, 1954, August 1, 1957, July 15, 1959, August 19, 1964, January 22, 1968, and June 15, 1973, respectively, as follows: *General commodities* between Hagerstown, MD and Baltimore, MD, over specified routes serving no intermediate points; specified commodities between Hagerstown and Washington, DC, between Hagerstown and Baltimore, MD; between Hagerstown and Newville, PA, serving certain intermediate points; specified commodities between Hagerstown on the one hand, and, on the other, points in MD, VA, PA, and DC within 75 miles of Hagerstown; general commodities between points within 3 miles of Blue Ridge Summit, PA; household goods between Blue Ridge Summit, PA and points within 3 miles thereof; new, uncrated furniture, fixtures, and equipment from Baltimore, MD and points within 50 miles thereof to points in MA, CT, RI, NY, NJ, DE, PA, MD, WV, VA, NC, SC, GA, FL, and DC; general commodities from Hagerstown to points in PA, VA, MD, and WV within 40 miles of Hagerstown; between points in Frederick County, MD; between Baltimore,

MD on the one hand, and, on the other, points in Frederick County, MD; between Baltimore and Washington, DC; and from points in MD, PA, VA, and WV within 40 miles of Hagerstown to Hagerstown. Transferee presently holds no authority from this Commission. Application for temporary authority under section 210a(b) was granted August 10, 1978.

MC-FC-77746, filed July 6, 1978. Transferee: LEPRECHAUN TOURS, INC., 51 Grand Avenue, Newburgh, NY 12550. Transferor: JAMES JONES (Sarba Jones—Executrix), d.b.a. Jones Travel Agency, P.O. Box 83, Hyde Park, NY 12538. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. Authority sought for purchase by transferee of the broker's license of transferor as set forth in License No. MC 130008 issued February 19, 1968, as follows: Passengers and their baggage, in special operations, in round trip, all-expense tours, beginning and ending at Hyde Park and Poughkeepsie, NY, and extending to points in the United States, including AK and HI. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77753, filed July 19, 1978. Transferee: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Transferor: STANLEY E. WHITEHEAD, same address as transferee. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought for purchase by transferee of operating rights of transferor as set forth in Certificates Nos. MC 140792 (Sub-1 and -3), issued July 21, 1976, and June 1, 1978, respectively, as follows: Feed and feed ingredients from Browntown, WI, to points in IL, IN, IA, MN, and MO; materials, equipment, and supplies used in the manufacture, sale, etc. of feed and feed ingredients from points in IL, IN, IA, MN, and MO to Browntown, WI; feed, feed ingredients, whey, whey byproducts and lactose from Boscobel, WI, to points in the United States (except AL, HI, and MI); materials, equipment, and supplies used or useful in manufacture, sale, etc. of feed, whey, etc., from points in the United States (except AL, HI, and MI) to Boscobel, WI; and animal feed ingredients (except in bulk) and bags between the facilities of Milk Specialties Co., at or near Dundee, IL, and the facilities of Milk Specialties Co., at or near Browntown, WI. Transferee presently holds authority in MC 136268 (Sub-2 and -5). Application for temporary authority under section 210a(b) has not been filed.

MC-FC-77755, filed July 10, 1978. Transferee: A LINE INC., 8135 Monroe Street, Munster, IN 46321. Transferor: WEST SHORE TRANSFER, INC., 215 Marble Street, Hammond, IN 46320. Representatives: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. Donald S. Carnow, Rosenthal & Carnow, 300 West Washington Street, Suite 817, Chicago, IL 60606. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates Nos. MC 22311 and MC 22311 (Sub-5), issued November 4, 1965, and March 30, 1976, respectively, as follows: Iron and steel articles and contractors' equipment, from Chicago Heights, IL, and points in the Chicago, IL, commercial zone to points in IL and IN and points in a specified area of MI, points in IA within 25 miles of the Mississippi River, and points in MO in the St. Louis, MO, commercial zone; contractors' equipment and damaged or rejected shipments of iron and steel articles, from points in the above-specified destination territories, to the above-specified origin points; iron and steel articles, and contractors' equipment, from points in a specified area of IN, to points in IL and IN, and points in a specified area of MI, points in IA within 25 miles of the Mississippi River, and points in St. Louis County, MO; contractors' equipment from the immediately above-specified destination points to points in a specified part of IN; scrap metals, from points in named counties in IL, to East Chicago, Gary, Hammond, Indiana Harbor, and Whiting, IN; from points in named counties in IN to Chicago Heights, IL, and points in the Chicago, IL, commercial zone; coated iron and steel articles, from the plantsite of Roll Coater, Inc., at or near Kingsbury, IN, to points in MI, IL, and IA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77762, filed July 13, 1978. Transferee: Raymond W. Ross, Jr., d.b.a. Citizens Van Lines, 159 Lafayette Street, Pawtucket, RI 02860. Transferor: James M. Martin, d.b.a. J. Martin (Amelia M. Martin, Executrix), 519 Pawtucket Avenue, Pawtucket, RI 02860. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 24114 issued June 24, 1941, as follows: Household goods between Providence, RI, on the one hand, and, on the other, points in CT and in specified parts of MA and NY; store and market fixtures and parts and accessories used in the manufacture thereof between Pawtucket and Providence, RI, on the one hand, and, on the other New York, NY, points in CT and in a specified part of MA; textile products, yarn, rags, and waste between Providence, RI, on the one hand, and, on the other, Boston, Fall River, New Bedford, Southbridge, and Worcester, MA, and Danielson, Stafford Springs, and Taftville, CT; new upholstered furniture and upholstery manufacturers' supplies from Providence, RI, to Attleboro, Fall River, New Bedford, and North Attleboro, MA, and from Boston and Gardner, MA, to Providence, RI. Transferee presently holds no authority from this Commission. Application for temporary authority under section 210a(b) has not been filed.

MC-FC-77764, filed July 17, 1978. Transferee: Tip-Top Trucking, Inc., 5 Baldarelli Court, Springfield, MA 01104. Transferor: The Bridgeport Storage Warehouse Co., 10 Whiting Street (P.O. Box 189), Bridgeport, CT 06601. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 30862 issued may 22, 1941, as follows: General commodities, with certain exceptions, from Bridgeport, CT, to points in CT. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 3504. Transferee has filed a directly related gateway elimination application. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77773, filed July 21, 1978. Transferee: R. G. Elder & Son Co., 1720 East Shawnee, Des Moines, IA 50315. Transferor: Wayne Cruchelow, 1315-39th Street, Des Moines, IA 50311. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 139314 issued October 30, 1974, as follows: Salt, in dump vehicles, from Des Moines, IA, to points in that part of IA on and west of U.S. Hwy 218. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77782, filed July 24, 1978. Transferee: Prisco Moving & Storage, Inc., 2339 Chatterton Avenue, Bronx, NY 10462. Transferor: John Prisco and Nicola Prisco, a partnership, d.b.a. Prisco Bros., Route 6, Brewster, NY 10509. Representatives: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. August Leone, Esq., Turk Hill Road, Brewster, NY 10509. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 76840 issued January 6, 1949, as follows: Household goods, between

points and places in Putnam and Westchester Counties, NY, on the one hand, and, on the other, points and places in MA, ME, NH, VT, RI, CT, NY, NJ, PA, DE, MD, VA, and DC. Transferee presently holds no authority from this Commission but is affiliated with Clancy-Cullen Storage Co., Inc., an authorized motor carrier holding authority under MC 22581 and subs thereunder. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77785, filed July 28, 1978. Transferee: Master Tours, INC., 111 West Clarendon Avenue, Phoenix, AZ 85077. Transferor: Greyhound World Tours, Inc., Greyhound Tower, Phoenix, AZ 85077. Representative: Robert E. Halpin, 0419 Greyhound Tower, Phoenix, AZ 85077. Authority sought for purchase by transferee of the broker license of transferor, as set forth in No. MC 12203 (Sub-1 and Sub-3), issued November 7, 1949, and May 15, 1962, respectively, as follows: Passengers and their baggage, in round trip sightseeing trips and in all-expense tours, between points in the United States; and passengers and their baggage, in sightseeing or pleasure tours, between points in the United States, excluding AK and HI, on the one hand, and, on the other, points in AK, and between poinst in AK. Tranasferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77786, filed July 28, 1978. Transferee: Gary R. Bailey, d.b.a. Gary R. Bailey Trucking, 202 South Clayton, Afton, IA 50830. Transferor: Merril Davenport, 202 South Jarvis, Creston, IA 50801. Representative: Kenneth F. Dudley, I.C.C. Practitioner, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 26920, issued November 29, 1973, as follows: *Feed*, between Omaha, NE, and Prescott, IA, serving intermediate and off-route points within 15 miles of Prescott. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

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

[FR Doc. 78-24591 Filed 8-30-78; 8:45 am]

[7035-01]

[I.C.C. Order No. 69 Under Revised Service Order No. 1252]

THE CHESAPEAKE AND OHIO RAILWAY CO.

Rerouting Traffic

AUGUST 28, 1978.

In the opinion of Joel E. Burns, Agent, The Chesapeake and Ohio Railway Co. is unable to transport traffic over its line between Ashland, Ky., and Lexington, Ky., because of congestion and accumulation of cars.

It is ordered,

(a) *Rerouting traffic.* The Chesapeake and Ohio Railway Co., being unable to transport traffic over its line between Ashland, Ky., and Louisville, Ky., because of congestion and accumulation of cars, is authorized to divert or reroute such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* The Chesapeake and Ohio Railway Co., in rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The Chesapeake and Ohio Railway Co., when rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 3 p.m., August 16, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 16, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-24588 Filed 8-30-78; 8:45 am]

[7035-01]

[I.C.C. Order No. 70 Under Revised Service Order No. 1252]

REROUTING TRAFFIC

AUGUST 28, 1978.

To All Railroads:

In the opinion of Joel E. Burns, Agent, the Southern Pacific Transportation Co. (SP) is unable to transport promptly all traffic routed via its lines through the New Orleans, La. gateway. The SP interchanges substantial numbers of cars daily with the Louisville and Nashville Railroad Co. (LN). The SP and the LN have agreed to interchange certain of this traffic via Memphis, Tenn., using the St. Louis Southwestern Railway Co. (SSW), a subsidiary of the SP as an intermediate carrier between the LN and the SP. Rerouting of this traffic via Memphis will substantially relieve the congestion on the SP in the New Orleans area.

It is ordered. The SP being unable to transport promptly all traffic routed via its lines through the New Orleans, La., gateway, that line and the LN are authorized to reroute via Memphis, Tenn., and the SSW traffic routed for direct interchange between the LN and the SP at New Orleans, La., in order to expedite the movement and relieve congestion at New Orleans. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(a) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(b) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were

applicable at the time of shipment on the shipments as originally routed.

(c) In executing the directions of the Commission and of such Agent provided in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said division shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(d) *Effective date.* This order shall become effective at 5 p.m., August 16, 1978.

(e) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1978, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., August 16, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-24587 Filed 8-30-78; 8:45 am]

[7035-01]

ATLANTA AND WEST POINT RAILROAD CO., CLINCHFIELD RAILROAD CO., GEORGIA RAILROAD, SEABOARD COAST LINE RAILROAD CO., WESTERN RAILWAY OF ALABAMA AND LOUISVILLE AND NASHVILLE RAILROAD CO.

Order to Show Cause

AUGUST 25, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of oral argument.

SUMMARY: The ICC has decided to hold oral argument on the necessity and appropriateness of entering the two service orders proposed in this proceeding.

TIME AND PLACE: The oral argument will be held at 9:30 a.m., Thursday, September 7, 1978, in Hearing Room B, Interstate Commerce Commission Building, 12th Street and Constitution Avenue, NW., Washington, D.C. Parties who plan to participate should inform the ICC (Room 5342, Washington, D.C. 20423) as soon as possible, but no later than September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Joel E. Burns, Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7849.

SUPPLEMENTARY INFORMATION:

In an order to show cause served August 4, 1978, the ICC stated that it appeared that good cause might exist for entering two service orders requiring railroads, comprising a part of the system of railroads controlled by the Seaboard Coast Line Railroad Co., to deliver 100 serviceable locomotives to the Louisville and Nashville Railroad Co. (L&N), and the L&N to supply during each calendar week to each coal mine ordering cars for single-car shipments a minimum of 40 percent of its daily mine rating multiplied by the number of working days in the week. The above-named parties were ordered to show cause why the two service orders should not be entered. Copies of the two proposed service orders were attached to the order to show cause.

In the oral argument, a total of 2½ hours will be allocated for all parties' presentations. Matters already of record in the pleadings shall not be repeated. To the extent possible, the parties are requested to consolidate their positions and fairly apportion the time between various interests. If they fail to do so, the ICC will take action as necessary.

Parties are requested to address, among other issues, the areas of inquiry that were set forth in the order to show cause.

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

[FR Doc. 78-24622 Filed 8-30-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Deposit Insurance Corporation	2
Federal Maritime Commission	3
Federal Trade Commission	4, 5
Foreign Claims Settlement Commission	6
International Trade Commission	7, 8
Interstate Commerce Commission	9
National Transportation Safety Board	10
Renegotiation Board	11

[6570-06]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 38504, August 28, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Wednesday, August 30, 1978.

CHANGE IN THE MEETING: The following item is added to the portion closed to the public:

EEOC Policy on Disclosure of Case Files.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued August 29, 1978.

[S-1739-78 Filed 8-29-78; 11:54 am]

[6714-01]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:20 p.m. on Friday, August 25, 1978, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to act upon an administrative enforcement proceeding, pursuant to section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)), against an insured State nonmember bank and to dispose of certain personnel matters.

In calling the meeting, the Board determined, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), that Corporation business required its consideration of the matters on less than 7 days' notice to the public; that no earlier notice of the meeting was practicable; that the matters were authorized to be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii)); and that the public interest did not require consideration of the matters in a meeting open to public observation.

Dated: August 25, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1744-78 Filed 8-29-78; 1:20 pm]

[6730-01]

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., September 7, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreements Nos. 9427-4 and 9552-3: Modifications of two North Atlantic European rate agreements to encompass inland operations in the United States and Europe.
2. Section 21 Order: Pacific Westbound Conference and Port of Portland, Oregon—Consideration of responses to Order.

CONTACT PERSON FOR MORE INFORMATION

Francis C. Hurney, Secretary, 202-523-5725.

[S-1748-78 Filed 8-29-78; 3:41 pm]

[6750-01]

4

FEDERAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Tuesday, September 12, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of minutes on nonadjudicative matters considered at meetings of May 3, June 23, July 18, and 25, 1978.
2. Consideration of disposition of National Beauty Supply Co., et al. File No. 741-0028.
3. Consideration of a proposed complaint in a nonpublic part II matter.
4. Consideration of a proposed complaint in a nonpublic part II matter.

Adjudicative matters under part 3 of the rules of practice:

Approval of minutes on adjudicative matters considered at meeting of July 25, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded message, 202-523-3806.

[S-1745-78 Filed 8-29-78; 3:38 pm] 000

[6750-01]

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, September 13, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Consideration of proposed rule and staff report on standards and certifications.
2. Consideration of amendment of paragraph (f) of the Trade Regulation Rule for games of chance in the retail food and gasoline industries (16 CFR section 419.1(f)), File No. R 777001.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded message: 202-523-3806.

[S-1746-78 Filed 8-29-78; 3:38 pm]

[6770-01]

6

[F.C.S.C. Meeting Notice No. 24-77]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

NOTICE OF MEETINGS

ANNOUNCEMENT IN REGARD TO COMMISSION MEETINGS AND HEARINGS

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wednesday, Sept. 6 and 13, 1978 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic
Wednesday, Sept. 20, 1978 at 10:30 a.m.—Canceled.
Wednesday, Sept. 27, 1978 at 10:30 a.m.—Canceled.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579, telephone 202-653-6156.

Dated at Washington, D.C. on August 23, 1978.

FRANCIS T. MASTERSON,
Executive Director.

[S-1741-78 Filed 8-29-78; 11:54 am]

[7020-02]

7

[USITC SE-78-41]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Wednesday, August 30, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Emergency meeting called with less than 10 days' prior notice. Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the Public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): a. Steel plate (Docket No. 530).
5. Rayon staple fiber from Belgium (Inv. AA1921-186)—Briefing and vote.
6. High-carbon ferrochromium (Inv. TA-201-35)—Vote on remedy (if necessary).
7. Request from the Committee on Finance re MIN negotiations (Docket No. 533).
8. Any items left over from previous agenda.

Portions closed to the public:

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1740-78 Filed 8-29-78; 11:54 am]

[7020-02]

8

[USITC SE-78-43]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, September 7, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be clised to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Sorbates from Japan (Inv. AA1921-183)—Briefing and vote.
6. Fishing tackle (Inv. TA-201-34)—Vote on injury.
7. Any items left over from previous agenda.

Portions closed to the public:

8. Status report on the MIN study.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1742-78 Filed 8-29-78; 11:54 am]

[7035-01]

9

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, September 7, 1978.

LACE: Hearing Room "B", Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Oral argument.

MATTER TO BE CONSIDERED: Order to Show Cause, Atlanta and West Point Railroad Co., Clinchfield Railroad Co., Georgia Railroad, Seaboard Coast Line Railroad Co., Western Railway of Alabama and Louisville and Nashville Railroad Co.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

Dated: August 28, 1978.

[S-1749-78 Filed 8-29-78; 3:53 pm]

[4910-58]

10

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 38665, August 29, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, August 31, 1978 [NM-78-32].

CHANGE IN MEETING: This meeting has been canceled. Agenda items scheduled for this meeting will be carried over to September 14. An official notice for the September 14 meeting will be published in the FEDERAL REGISTER on or before September 7, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-1747-78 Filed 8-29-78; 3:38 pm]

[7910-01]

11

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 37833, August 24, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Wednesday, September 5, 1978; 10 a.m.

CHANGE IN MEETING: Date corrected to: Tuesday, September 5, 1978; 10 a.m.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: August 28, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-1743-78 Filed 8-29-78; 11:54 am]

federal register

THURSDAY, AUGUST 31, 1978
PART II

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

CONTRA COSTA WALLFLOWER AND ANTIOCH DUNES EVENING-PRIMROSE

Determination of Critical Habitat

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Critical Habitat for Two Endangered California Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines Critical Habitat for the entire ranges of the Contra Costa wallflower (*Erysimum capitatum* var. *angustatum*) and the Antioch Dunes evening-primrose (*Oenothera deltoides* ssp. *howellii*), both endangered species. This action is being taken because of ongoing habitat modification and makes all provisions of section 7 of the Endangered Species Act of 1973 applicable to these species. In accordance with section 7, all Federal agencies are required to insure that actions authorized, funded, or carried out by them do not destroy or modify this critical habitat. The areas determined as critical habitat are located in Contra Costa County, Calif.

DATES: This rule becomes effective on October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

Background

In the Federal Register of February 8, 1977 (42 FR 7972-7975), the Fish and Wildlife Service published a proposed determination of critical habitat for eight species, including the Contra Costa wallflower and Antioch Dunes evening-primrose. The critical habitat for both plants is identical and was described as: California—an area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in Contra Costa County, with the following components: T. 2 N. R. 2 E. SW¼ Sec. 17 E⅔ of S½ Sec. 18.

On February 8, 1977, in the Federal Register proposed rulemaking (42 FR 7972-7975) and associated February 7, 1977 press release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments on the two plants received during the period February 8, 1977 to April 8, 1977, were considered.

Summary of Comments and Recommendations

Comments on the plants were received during the comment period from three individuals and organizations.

Three additional comments were received just after the end of the comment period, and they have been considered and are summarized as well.

No comment was received from the State of California on the plants, although the State did request an extension of the comment period for the critical habitats also proposed for butterflies of February 8, 1977.

Four of the commenters expressed opinions as to the suitability of the rulemaking. All four were strongly in favor of critical habitat determination for the two plants. These comments were from Hon. John A. Nejedly, California Senator for the district which includes the two plants; Ms. Alice Howard, representing the California Native Plant Society; and Messrs. Tom Torlakson and Randy Milliken, both representing the San Francisco Bay chapter of the Sierra Club. Three of the commenters stressed the uniqueness of the plants ecosystem, and pointed out the necessity to acquire and protect the habitat.

The U.S. Forest Service, represented by Thomas C. Nelson, had no substantive comments on the biological aspects of the proposal, but felt that the proposal of critical habitat for the plants without reference to other proposed and final regulations on the same species was confusing. The Service acknowledges this lapse and will strive to make appropriate references in the future. The two plants were among some 1,700 species proposed for endangered status in the June 16, 1976, Federal Register (41 FR 24523-24572). Both plants were among 13 species determined as endangered or threatened species in the April 26, 1978 Federal Register (43 FR 17910-17916). Both were determined to be Endangered.

The other comment was supplied to the Service by Dr. Jerry A. Powell and Mr. Richard Arnold, Department of Entomological Sciences, University of California at Berkeley. Their comment consisted of a detailed report on the status of both insects and plants endemic to the Antioch Dunes, including the wallflower and evening-primrose. A map of the location of the plants within the critical habitat was included, and comments on the habitat needs of the plants were provided. In particular it was stated that both the wallflower and evening-primrose are dependent on open sand areas, and are absent from areas where weedy, exotic plants have invaded the dunes.

Conclusion

After a thorough review and consideration of all the information available, the Director has decided to determine Critical Habitat for the Contra Costa wallflower and Antioch Dunes evening-primrose as outlined in the February 8, 1977, proposed rulemaking.

Critical Habitat

A definition of the term "Critical Habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the Federal Register of January 4, 1978 (43 FR 870-876, to be codified as 50 CFR part 402) and is reprinted below:

> "Critical Habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation affects only Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical in accordance with the above definition, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation in order to cover additional habitat under section 7 provisions or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These

questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, provisions for Interagency Cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876, to be codified at 50 CFR part 402) to assist Federal agencies in complying with their responsibilities under section 7 of the Endangered Species Act of 1973.

As specified in the above regulations, the Director has considered the physiological, ecological, and evolutionary requirements for survival and recovery of the listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth;

(2) water, air, light, minerals, or other nutritional or physiological requirements;

(3) cover or shelter;

(4) sites for breeding, reproduction; and generally,

(5) habitats that area protected from disturbances or are representative of the geographical distribution of listed species.

These requirements and their application to the Critical Habitats to be determined for the two plant species are as follows:

CONTRA COSTA WALLFLOWER

This plant is endemic to the Antioch Dunes just east of Antioch, Contra Costa County, Calif. Several decades ago, the habitat of this plant amounted to several hundred acres; it is now limited to a few acres and few individuals. It is restricted to more or less consolidated (stabilized dunes of fine sand and some clay with sparse herbs and shrubs, or less often with pasture grasses, herbs, and scattered *Quercus agrifolia*. The dunes have been largely mined away. The wallflower is dependent on open sand areas, and is not found in areas where weedy exotic plants have invaded the dunes. The area determined to be Critical Habitat for this plant is the only known population of this plant and provides the requirements needed for its continued existence. Loss of this habitat would appreciably decrease the likelihood of survival or recovery of the Contra Costa wallflower.

ANTIOCH DUNES EVENING-PRIMROSE

This plant is endemic to the Antioch Dunes, Contra Costa County, Calif. It had formerly been widespread on these dunes which extended for about 3 miles parallel to the Sacramento-San Joaquin Rivers, averaging ¼ mile wide (approximately 500 acres). It is now limited to the remnants of the dunes, an area of no more than 60 acres.

This species flowers nocturnally in April and May and produces large numbers of light, wind-borne seeds. Pollination is by hawkmoths, although several bees are dependent upon collecting its pollen at sunrise. It is a "traveller" in that it is biennial and requires freshly disturbed sand for the survival of progeny. Seedlings will not flourish where preceding plants grew to maturity. Enough fresh sand is present on natural moving sand dune systems for this species to maintain a high population level. It is not found in areas where weedy exotic plants have stabilized dune slopes. The area determined to be Critical Habitat includes the only known location for this species and provides the requirements needed for its continued existence. Loss of this habitat would appreciably decrease the likelihood of the survival and recovery of the Antioch Dunes evening-primrose.

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the Contra Costa wallflower and the Antioch Dunes evening-primrose.

Based on this review, the Critical Habitat for the Contra Costa wallflower (*Erysimum capitatum* var. *angustatum*) and Antioch Dunes evening-primrose (*Oenothera deltoides* ssp. *howellii*) is determined to include the following area (exclusive of those existing man-made structures of settlements which are not necessary to the normal needs or survival of the species):

(1) California, Contra Costa County—T. 2 N., R. 2 E. SW¼ of section 17, E⅔ of S½ of section 18.

EFFECTS OF THE RULEMAKING

Section 7 of the Act provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purpose 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 purpose of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of the 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 or 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.

As mentioned above, provisions for interagency cooperation were published on January 4, 1978, in the FEDERAL REGISTER to assist Federal agencies in complying with section 7.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the Contra Costa wallflower and Antioch Dunes evening-primrose. The assessment is the basis for a decision that this determination is not 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.

The primary authors of this rulemaking are John J. Fay and Paul A. Opler, Office of Endangered Species, U.S. Fish and Wildlife Service, 202-343-7814.

REGULATIONS PROMULGATION

50 CFR Chapter I is amended by adding a new § 17.96 as follows:

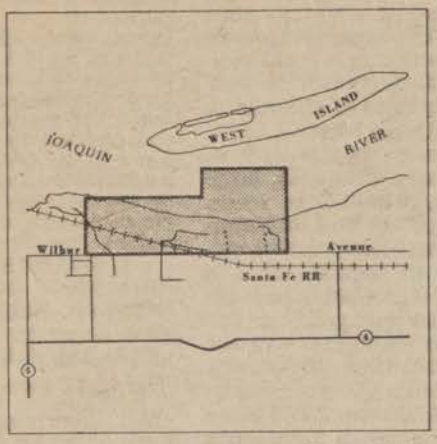
§ 17.96 Critical habitat-plants.

The following areas, exclusive of those existing manmade structures or settlements which are not necessary to the normal needs or survival of the species, are critical habitat for the species indicated. As provided in Part 402 of this Title, all Federal agencies must insure that actions authorized, funded, or carried out by them do not result in

the destruction or adverse modification of the following areas.

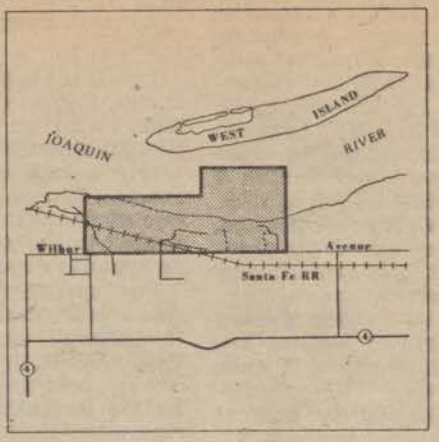
(a) *Flowering plants.*

Family Brassicaceae: Contra Costa Wallflower (*Erysimum capitatum* var. *angustatum*). *California.* An area of land, water, and airspace in Contra Costa County, with the following components: T. 2 N. R. 2 E. SW¼ section 17, E⅔ of S½ of section 18.



Critical Habitat for Contra Costa Wallflower

Family Onagraceae: Antioch Dunes Evening-Primrose (*Oenothera deltoides* ssp. *howellii*). California. An area of land, water, and airspace in Contra Costa County with the following components: T. 2 N. R. 2 E. SW¼ section 17, E⅔ of S½ of section 18.



Critical Habitat for Antioch Dunes Evening-Primrose

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 11, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-24437 Filed 8-30-78; 8:45 am]

federal register

THURSDAY, AUGUST 31, 1978
PART III

DEPARTMENT OF AGRICULTURE

Forest Service

NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 219]

NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes to issue regulations to guide land and resource management planning in the national forest system. These rules require an integration of planning for all uses of national forest lands and grasslands, including the timber, range, fish and wildlife, water, wilderness, and recreation resources, together with resource protection activities and coordinated with fire management and other resource use, such as minerals. The proposed rules will implement provisions of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

These statues provide for the establishment and revision of national, regional, and local resource goals which are based on a periodic assessment of the future supply and demand of renewable resources from public and private forest and range lands. Achievement of these goals is the purpose of the planning process provided in these regulations. These acts also require public participation in the development, review and revision of land and resource management plans, and the coordination of such plans with those of State and local units of government and of other Federal agencies.

DATES: Public meeting: September 15, 1978—1 p.m. to 5 p.m. Comments must be submitted on or before October 30, 1978.

ADDRESSES: Meeting location: Department of Agriculture, Administration Building, Room 218-A, 12th and Independence Avenue SW., Washington, D.C. Send comments to: Chief, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013. All written submissions will be available for public review in room 3204, South Agriculture Building, 12th and Independence Avenue SW., Washington, D.C., 8:15 a.m. to 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Charles R. Hartgraves, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, 202-447-5933.

SUPPLEMENTARY INFORMATION:

NOTICE OF MEETING

There will be a public meeting in Washington, D.C., on September 15, 1978, from 1 p.m. to 5 p.m. to discuss the proposed rules. The meeting will be conducted by Assistant Secretary of Agriculture M. Rupert Cutler in room 218-A Administration Building, Department of Agriculture, 12th and Independence Avenue SW., Washington, D.C.

The public will have an opportunity to ask questions during the meeting. Oral and written statements offered at the meeting will be included in the evaluation of public response to the proposed rules.

1. PURPOSE

The Forest and Rangeland Renewable resources Planning Act of 1974 (RPA) (88 Stat. 476, et seq.), as amended by the National Forest Management Act of 1976 (NFMA), (90 Stat. 2949, et seq.) (16 U.S.C. 1601-1614), specifies that an interdisciplinary approach will be used in land management planning and that there will be a periodic review of the planning process, followed by any necessary amendments, to keep it current with statutory requirements. These statutes also provide for the establishment and revision of national, regional and local resource goals which are based on a periodic assessment of the future supply and demand of renewable resources from public and private forest and range lands. Achievement of these goals is the purpose of the planning process provided in these regulations. These acts also require public participation in the development, review and revision of land and resource management plans, and the coordination of such plans with those of State and local units of government and of other Federal agencies.

These rules apply to all land and resource management plans developed hereafter for the National Forest System.

2. INTRODUCTION

These rules require an integration of planning for all uses of national forest lands and grasslands, including the timber, range, fish and wildlife, water, wilderness, and recreation resources, together with resource protection activities and coordinated with fire management and other resource use, such as minerals. By October 1985, all lands should be covered by plans developed under these regulations.

One purpose of the planning process is to seek agreement between the public and those responsible for management of the land on resource development and use. The plans will reflect the results of that process. Another purpose is to reflect the optimum attainable benefits to be derived from the land and the costs of obtaining those benefits. Each forest plan, therefore, will reflect the needs which the local public expects will be met, but within the constraints required to meet national goals and objectives.

Each forest plan will be developed by an interdisciplinary team with public participation and in coordination with Federal and State agencies. To the extent feasible, and where compatible with Federal obligations, the plan will be in conformity with State and local resource plans, and will incorporate the latest management concepts and principles set forth in current literature.

The optimum unit for planning purposes will normally be the national forest lands under the jurisdiction of a forest supervisor. This is a sufficiently large unit to avoid the adverse consequences that may occur when land units of smaller size are selected, because plans for smaller units tend to be dominated by special interests and dominant uses, rather than multiple uses. The thrust of the planning process will be to retain a fair balance of appropriate uses and to reflect the multiple-use consequences of management decisions in the context of the changing priorities of our society.

The regulations do provide, however, for the flexibility to prepare a forest plan for a national forest or two or more national forests under the jurisdiction of a single forest supervisor where such an area is the appropriate land base for resource management planning.

In order to plan effectively for multiple-use management of all renewable resources, as required by the Forest and Rangeland Renewable Resource Planning Act and the National Forest Management Act, it is essential that the use and development of these resources be planned and managed for the same area of land. Planning for use and development of each resource on differing land areas would complicate planning enormously and make the evaluation of the relative value of the various resources, their interrelationships and interdependence extremely difficult. Under these regulations the timber resource will be managed on the same land base as the other resources for which a forest plan is developed, rather than the public land area within a proclaimed national forest. It is not expected that this realinement will cause any significant alteration in determination of timber sale quantities. The principal effect will be to permit integrated resource decisions for the same land area. Timber sale quantities will be determined for the same quantity of land; it will merely mean that the total area will be divided differently. In most in-

stances a timber sale quantity land base will be relatively the same size as the land base in the proclaimed forest.

3. BACKGROUND AND SITUATION

The NFMA was enacted to clarify the rules regarding the silvicultural practices to be used on the national forests, and to specify that certain land and resource management planning practices should be developed and adopted. The planning process involves the requirements of section 6 of NFMA and several other provisions of the act which affect planning, such as section 13, to achieve overall consistency with multiple-use concepts. Direction for the planning process and the standards and guidelines for resource management is provided in these regulations. The Forest Service directives system—its Forest Service manual and handbooks—will be revised to include more detailed instructions and policies to be followed in planning. The revision of the resource planning portion of the manual, FSM 1920, will be open to public participation and will incorporate the recommendations of relevant scientific disciplines on technical matters.

Alternative national programs are considered through the renewable resources program developed under the RPA which is used to select long-range programs and policies. Planning on a regional basis will be used to determine the goals and objectives for use in planning for national forests and national grasslands. The planning process set forth in these rules is continual and includes the collection, dissemination and use of information at the forest level and the exchange of such information among Forest Service units at national, regional, and local levels.

The planning process is intended to integrate all functional resource planning and thereby improve upon previous planning methods of developing multiple-use, land-use, unit or other types of plans. The planning process should result in both allocating land to specific uses and assuring that resource management goals are achieved. The rules incorporate the process of environmental assessment, with more detail to be included in Title 1900 of the Forest Service Manual.

RPA and NFMA provide a detailed statutory basis to guide and constrain Forest Service land management planning. To meet the intent of these statutes, the planning process will:

1. Indicate fully the mix of benefits that are, and can be, derived from the national forests and national grasslands under management alternatives;

2. Permit development of national and regional estimates of production levels that incorporate local decisions;

3. Show how the demands that national policy identifies will be supplied from forest resources in the National Forest System;

4. Use the latest "state-of-the-art" techniques to handle information, including, but not limited to, in-place, location-specific data, to estimate joint production potentials by land class and management alternatives, and to select methods of management best suited to meet specific goals;

5. Use public input to the maximum extent practical to seek and set goals, estimate demand, and prescribe management methods;

6. Encourage prompt changes to meet new conditions; and

7. Include systems to analyze and evaluate the results of activities and to determine the degree of compliance with directions in existing plans to guide future planning efforts.

For several years the Forest Service has been updating and improving land-use and resource plans under instructions in Title 8200 of the Forest Service Manual. Many of these plans have been completed; others are nearly completed. Following issuance of these regulations and prior to the adoption of land management plans thereunder, current land-use and resource plans will continue to be revised under title 8200 instructions. This continued planning will take advantage of efforts already underway to improve such plans and expedite eventual inclusion of improved management direction in forest plans. Any such continued planning will be accomplished as revisions or amendments to land-use and resource plans in effect upon issuance of these regulations and will incorporate, to the extent practicable, the standards and guidelines contained in these regulations. In addition to such incorporations, other modifications made concurrently will be consistent with the standards and guidelines in the regulations. Where continued title 8200 planning will not expedite implementation of standards and guidelines and improve resource management direction, planning will concentrate on developing the management plans called for by the National Forest Management Act of 1976 and these regulations.

4. HOW THESE REGULATIONS WERE DEVELOPED

Data were collected from many individuals, mainly persons working on the national forests, to define problems and obtain suggested solutions. These data included material on most aspects of land and resource planning and on resource protection. Planning literature was examined to assure that a modern, sound planning process would be provided for.

These regulations are the result of a process which took into account the advice of a committee of scientists established under section 6 of the National Forest Management Act of 1976. The committees of scientists report to the Secretary of Agriculture is printed at the end of the proposed regulations. The committee plans to submit additional reports as it completes technical analysis of the proposed regulations. The committee first met on May 24-26, 1977. It held 12 meetings at locations throughout the United States. The meetings included public participation. The committee's advice has assured the use of an interdisciplinary approach, and its suggestions were the most important source of external guidance in the development of these regulations. Minutes of the meetings are available for review in the Office of the Land Management Planning Staff, Forest Service, Washington, D.C., and in the offices of the regional foresters located in Albuquerque, N. Mex.; Atlanta, Ga.; Denver, Colo.; Juneau, Alaska; Milwaukee, Wis.; Missoula, Mont.; Ogden, Utah; Portland, Oreg.; and San Francisco, Calif. Two sections of the regulations have received considerable discussion during the committee of scientists' public sessions. These sections are § 219.10(d)(2), timber producing lands, specifically lands not suited for timber production, and § 219.10(d)(4), determination of the allowable sale quantity, specifically the departure provision. Individuals representing different interests who participated in the committee sessions have proposed language for these sections of the regulations as part of the prepublication public involvement. In order for reviewers to know about these proposals and comment, they have been published with the regulations following the committee of scientists' report.

5. OVERVIEW OF THE REGULATIONS

These regulations are designed to guide employees of the agency, rather than to regulate members of the general public, and should read in that context.

Section 219.1 states the purpose of the regulations.

Section 219.2 stipulates that only the National Forest System is affected by these regulations. However, it is important to recognize that the process and results of land and resource management planning will influence research, as well as State and private forestry programs.

These rules apply to all National Forest System land and resource management planning. Where specific planning criteria appear in statutes, they will also apply and will be controlling where they conflict with these general planning criteria.

Section 219.3, definitions, defines the use of certain terms with meanings herein other than those found in a dictionary.

Section 219.4, relationship of planning levels, controls the flow of management direction and information both from the national to the local level and the reverse.

Section 219.5 describes the interdisciplinary approach required in these regulations to assure that all resources, their interrelationships, and a diverse set of management alternatives are analyzed for the decisionmaker. Rather than link numerous recommendations made independently by the disciplines that affect the National Forest System, the decisionmaker will evaluate and adjust as necessary to reach the best possible conclusion after consideration of all available relevant data provided by the interdisciplinary planning team in an integrated presentation.

Sections 219.6 and 219.7, respectively, contain the rules on public participation and the coordination of Forest Service planning with public planning efforts by agencies other than Forest Service. The intent is to keep the planning process open to receive the viewpoints of all interested members of the public and to assure that Federal, State, and local planning is coordinated.

Section 219.8 provides the general procedure and responsibilities for planning and the requirements for the forest plan and its accompanying draft and final environmental statements.

Section 219.9 outlines the forest planning process from the identification of public issues and management concerns to the evaluation of planning results.

Section 219.10 establishes resource management standards and guidelines to be used by the forest supervisor when planning for the future use of lands under the supervisor's jurisdiction.

Section 219.11 provides for the identification of research needs during the planning process and for incorporation of the results of research in future planning efforts.

Section 219.12 provides direction for planning and management until plans under section 6 of NFMA are adopted. It fulfills the intent of the Congress to continue uninterrupted use and management of National Forest System lands.

Planning is a continuing process. There are now in effect plans prepared under earlier planning procedures which meet, to varying degrees, the requirements of section 6 of NFMA. This will result in a heavier concentration of funds and manpower on some areas than on others to meet the October 1985 deadline for completed plans for all lands within the National Forest System.

The roadless area review and evaluation—an accelerated land management planning effort involving about 62 million acres of roadless lands in the National Forest System—will continue during the transition period. Some of these "RARE II" inventoried lands will be recommended to the Congress for immediate designation as wilderness. Other "RARE II" lands will be allocated during forest planning to uses other than wilderness. In addition, a third category of "RARE II" lands will be evaluated for all uses including wilderness.

6. ENVIRONMENTAL IMPACTS

The Chief, Forest Service, has determined, after conducting an environmental assessment of the proposed rules, that an environmental analysis will be performed on the environmentally significant aspects of the various programs through land and resource management planning. The regulations prescribe the process for preparation of all land and resource management plans developed hereafter for the National Forest System. This approach will be more meaningful because it will insure that the level of analysis is consistent with the regional and forest operation of the program. The forest is the level at which most program decisions will be made and most proposals requiring other decisions will be generated. Regional and forest analysis will more clearly develop issues relating to the various physio-geographic areas to be impacted by the program.

An environmental impact statement on the proposed rules is not required under section 102(2)(c) of the National Environmental Policy Act because they will not have a significant effect on the quality of the human environment. The proposed rules only establish procedures required by section 6 of the Act. The rules do not propose an action entailing the commitment of resources at this time but rather establish procedures for the consideration of commitments in the future.

The environmental analysis report is available for review in room 3204, South Agriculture Building, 12th and Independence Avenue SW., Washington, D.C.

It is proposed to issue the following new part to Chapter II, Title 36, CFR.

PART 219—PLANNING

Subpart A—National Forest System Land and Resource Management Planning

Sec.

219.1 Purpose.
219.2 Scope and applicability.
219.3 Definitions.
219.4 Planning levels.
219.5 Interdisciplinary approach.
219.6 Public participation.
219.7 Coordination of public planning efforts.
219.8 Forest planning procedure.
219.9 Forest planning process.
219.10 Resource management standards and guidelines.
219.11 Research.
219.12 Transition period.

AUTHORITY: The provisions of this subpart are issued pursuant to sections 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613); and 5 U.S.C. 301.

§ 219.1 Purpose.

These regulations set forth a process for the development, adoption, and revision of National Forest System land and resource management plans in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. The environmental impact assessment process established by the National Environmental Policy Act of 1969 is contained within this land management planning process. General resource management standards and guidelines which apply to specific renewable resources are set forth in this subpart. These regulations describe how land and resource management planning shall be conducted on National Forest System lands. The resulting plans will provide for multiple use and sustained yield of products and services from the National Forest System. Plans guide all natural resource management activities. They determine forest management systems, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management. All levels of planning will reflect the following principles:

(a) Balanced consideration of all renewable resources and their various uses;

(b) Establishment of goals and objectives for the sustained yield of products and services without impairment of the long-term productivity of the land;

(c) Protection of and, where appropriate, improvement of the quality of soil, water, and air resources;

(d) Preservation of important historic and cultural resource aspects of our national heritage;

(e) A systematic interdisciplinary approach;

(f) Coordination with the resource planning efforts of State and local governments, other Federal agencies, and Indian tribes;

(g) Early and frequent public participation;

(h) Responsiveness to changing conditions of the land and desires of the American people; and

(i) Provision for the safe use and enjoyment of the forest resources by the public.

§ 219.2 Scope and applicability.

These regulations apply to all lands of the National Forest System. Any area within the National Forest System subject to acts of Congress which are more specific than the Forest and Rangeland Renewable Resources Planning Act, as amended, such as the Wild and Scenic Rivers Act, National Trails System Act, Wilderness Act, national recreation areas acts, and other similar statutes specifically designating lands for particular uses, also are subject to the general provisions of the Forest and Rangeland Renewable Resources Planning Act, as amended, and to these regulations. In the event of conflict between the general and specific acts, the act specifically designating an area for a particular use shall be controlling.

§ 219.3 Definitions.

For purposes of this subpart the following words shall have these meanings:

(a) "Capability": The ability or potential of a unit of land to produce resources, supply goods and services, and allow resource uses under an assumed set of management practices or at a given level of management intensity. Capability depends upon a fixed set of conditions which are relatively stable over time, including, but not limited to, climate, slope, landform, soils, and geology. Most land has an inherent capability to produce one or more resources, or goods and services, or allow resource uses, under natural conditions.

(b) "Diversity": The number of different plant and animal species and each species' abundance, plus the distribution and abundance of different natural plant and animal communities within the area covered by a land and resource management plan. A large number of species and a variety of natural biological communities in an area is described as a high level or degree of ecological diversity.

(c) "Economic efficiency analysis": A comparison of the values of the resource inputs (costs) required for plan implementation with the values of resource outputs (benefits) resulting from plan implementation. Benefits are expected to exceed costs.

(d) "Environmental assessment": All activities related to analyzing alternative actions and their predictable short- and long-term environmental effects, which include physical, biological, economic, and social factors and their interactions.

(e) "Goal": A concise statement of the desired state or condition that a land and resource management policy or program is designed to achieve. A goal is usually not quantifiable and may not have a specific date by which it is to be completed. Goals are the principal statements from which objectives are developed.

(f) "Management intensity": Management activities and the funding levels associated with them. Management intensity will vary according to site productivity and resource allocation.

(g) "Management concern": Consideration of conflicts, management problems, and constraints. Such concerns include policy, goals, and objectives.

(h) "Objective": A clear and specific statement of planned results to be achieved within a stated time period. Objectives are subordinate to goals, are narrower and shorter in range, and have an increased probability of attainment. Time periods for completion, and outputs or achievements that are measurable and quantifiable, are specified.

(i) "Public issue": A subject or question of widespread public discussion or interest regarding management of National Forest System lands.

(j) "Public participation activities": Meetings, conferences, seminars, workshops, tours, and similar activities scheduled and held to obtain comments from the general public and specific "publics" in conjunction with National Forest System land management planning; includes solicitation of written comments.

(k) "Responsible Forest Service official": That individual who has been delegated the authority to carry out a specific action under the authorities of the Secretary of Agriculture.

(l) "Suitability": The appropriateness of applying certain resource management activities to a given unit of land, as determined by an analysis of the environmental and economic consequences and the alternative uses foregone.

§ 219.4 Planning levels.

The planning process includes flows of information and management direction among the three levels of planning.

(a) National. The Chief, Forest Service, shall formulate the Renewable Resource Assessment which will analyze the present and future uses of, demands for, supplies of, and opportunities to improve or extend the Nation's forest and rangeland renewable resources. The Chief shall develop a recommended renewable resource program based on the assessment. The program will include quantified national renewable resource goals and objectives and the portion of each national goal and objective, expressed as a range of outputs of accomplishment, which shall be assigned to each region as the basis for the development of regional plans. The ranges of regional goals and objectives will be reevaluated and adjusted in subsequent updates of the national program when a region is unable to achieve the assigned level of goods and services from national forest system lands.

(b) Regional. Each regional forester shall develop a regional plan to accomplish the region's assigned portion of the national program. These regional plans must contribute to and respond to the renewable resource program by providing the following as a minimum:

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

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

(3) Resource objectives for the land in each forest plan; and

(4) Guidelines to resolve public issues and management concerns, including at least maximum size limits for areas to be cut in one harvest operation. Such limits are to be set according to geographic area, soil type, forest type, growth potential, utilization standards, management intensity, and potential for environmental degradation of any land.

(c) *Forest.* Forest plans shall be developed for all lands in the National Forest System. One forest plan may be prepared for all lands for which a forest supervisor has responsibility, or separate forest plans may be prepared for each national forest, or combination of national forests, within the jurisdiction of a single forest supervisor. These forest plans will constitute the land management plans developed in accordance with section 6 of the National Forest Management Act and will include all resource management planning. Forest plans must contribute to achieving the goals and objectives set forth in the regional plan through identifying the resource capabilities of the forest and that portion of the regional goals and objectives which the forest can contribute.

§ 219.5 Interdisciplinary approach.

(a) An interdisciplinary approach shall be used by a team at each level of planning. Essentially continuous interaction among team members will insure systematic, integrated consideration of physical, biological, economic, and other sciences. The team shall be composed of Forest Service personnel who collectively represent two or more areas of specialized technical knowledge about natural resources management applicable to the area being planned. The team will consider problems collectively, rather than separate them along disciplinary lines. The team may consult persons other than Forest Service employees.

(b) In the appointment of the interdisciplinary team, the responsible Forest Service official shall determine

and consider the relevance of the qualifications of each team member on the basis of the areas of major concern being addressed in planning for the land area. The official also shall appoint the leader of the team, and may change the membership of the team as he or she deems necessary.

§ 219.6 Public participation.

(a) Resource planning determines how the public lands of the National Forest System are to be managed; therefore, the public will be encouraged to participate in the planning process to assist the responsible official in determining which course of action is in the public interest.

(b) Public involvement, as deemed appropriate by the responsible Forest Service official, shall be used throughout the development, revision, and significant amendment of plans. Public involvement shall be initiated by media notice which includes the following information:

(1) Description of the proposed planning action;

(2) Descriptions of the geographic area to be planned;

(3) The issues expected to be discussed;

(4) The kind and extent of public participation to be used;

(5) The times, dates, and locations scheduled or anticipated for public meetings;

(6) The name, title, address, and telephone number of the Forest Service official who may be contacted for further information; and

(7) The location and availability of documents relevant to the planning process.

(c) Public involvement in the preparation of a draft environmental statement for planning shall begin with the publication of a notice of intent in the FEDERAL REGISTER. After this publication, all public involvement for land and resource management planning, including that required by the National Environmental Policy Act, shall be conducted together on a simultaneous basis.

(d) Public participation activities should be appropriate to the area and people involved. Means of notification should be appropriate to the level of planning. Public participation activities may include requests for written comments, as well as meetings, conferences, seminars, workshops, tours, and similar events sheduled and held to foster public reactions and suggestions.

(e) At least 30 days public notice will be given for activities associated with the development of national or regional plans. At least 15 days public notice will be given for activities associated with forest plans. Any notice requesting written comments on national and regional planning will allow at least 60 calendar days for responses, and on forest planning will allow at least 30 calendar days for responses.

(f) A list of individuals and groups known to be interested in or affected by the plan shall be maintained. They shall be notified of public participation activities.

(g) The responsible Forest Service official or his representative shall attend all Forest Service public participation activities.

(h) All scheduled public participation activities shall be documented by a summary of the principal issues discussed, comments made, and a register of those in attendance.

(i) Copies of approved plans shall be reasonably available for public review, as follows:

(1) Renewable resource assessment and renewable resource program shall be available at national headquarters, each regional office, each forest supervisor's office, and each district ranger's office;

(2) The regional plan shall be available at national headquarters, that regional office and regional offices of contiguous regions, each forest supervisor's office of forests within and contiguous to that region, and each district ranger's office in that region;

(3) The forest plan shall be available at the regional office for that forest, that forest supervisor's office, and forest supervisors' offices contiguous to that forest, each district ranger's office in that forest, and those district rangers' offices in other forests that are contiguous to that forest, and at least one additional location determined by the forest supervisor which will offer convenient access to the public; and

(4) For public information purposes, copies of the above plans may be made available at other convenient locations.

(j) Supporting documents to plans shall be available at the office where the plan was developed.

(j) Upon issuance of a draft environmental statement on a forest plan, revision or significant amendment, and concurrent with the public participation activities under paragraph (e) of this section, the public shall have a 3-month period to review the statement for the proposed forest plan, revision or significant amendment. During that time additional public participation activities will take place to review the actions proposed in the draft environmental impact statement.

(k) Fees for reproducing requested documents may be charged according to the Forest Service schedule for Freedom of Information Act requests (7 CFR 1.1 et seq., Appendix A).

§ 219.7 Coordination of public planning efforts.

(a) The responsible Forest Service official, through the interdisciplinary team, shall coordinate Forest Service planning with land and resource management planning processes of other affected public entities and Indian tribes.

(b) The responsible Forest Service official shall give notice of the preparation or revision of a forest plan along with a general schedule of anticipated planning steps to the State clearinghouse (OMB Circular A-95) for circulation among State agencies. The same notice will be mailed to all Tribal or Alaska Native leaders to the extent Indian Reservations or Alaskan Native corporations are impacted, and to the heads of county boards for the counties that are involved. These notices shall be issued simultaneously with the public notice required in paragraph 219.6(b).

(c) During the planning process, the responsible Forest Service official shall consult systematically and as often as appropriate with other affected Federal agencies, State and local governmental agencies, Indian tribes and Native corporations to create common understanding of the planning process and to enhance the probability that all agencies planning for the same geographic area will adopt the same or compatible objectives. This consultation shall be documented in the record of the plan.

§ 219.8 Forest planning procedure.

(a) *Responsibility.* The Forest Supervisor and the interdisciplinary team shall have the following responsibilities:

(1) *Forest Supervisor.* The forest supervisor shall have overall responsibility for the preparation and implementation of the forest plan and shall appoint and supervise an interdisciplinary team.

(2) *Interdisciplinary team.* The team shall develop a proposed forest plan using the planning process in a manner consistent with the National Environmental Policy Act of 1969 and its implementing regulations. The team will implement the public participation and coordination requirements in preparing the draft and final environmental impact statements, forest plan, revisions, and amendments thereto. The team will continue to function, even though membership may change, and will monitor and evaluate planning results and recommend revisions and amendments.

(b) *Planning process records.* Records shall be maintained that support environmental assessment conclusions reached by the team and by the forest supervisor throughout the planning process. Such supporting records will

provide the basis for the draft and final environmental statements and the development of, revision or significant amendment to, the forest plan.

(c) *Draft environmental impact statement.* Proposed forest plans, revisions, or significant amendments will be described in the draft environmental impact statement. A notice of intent to prepare this statement will be issued. Beginning at the time of notification in the FEDERAL REGISTER of the issuance of the statement, this statement will be available for public comment for 90 days or 3 months, whichever is longer, at convenient locations in the vicinity of the lands covered by the plan, revision, or significant amendment. During this period, and in accordance with the provisions in § 219.6, the responsible Forest Service official shall publicize and hold meetings or comparable activities as he deems appropriate to foster public participation.

(d) *Final environmental impact statement.* A final environmental impact statement on forest plan will be prepared by the interdisciplinary team, and after review and concurrence, the forest supervisor will propose that it be filed by the regional forester at least 30 days prior to actions which are based upon the selected alternative for the plan, revision, or significant amendment. The forest plan, revision, or significant amendment shall be based on the selected alternative.

(e) *Forest plan approval.* The forest supervisor shall transmit the proposed forest plan, revision, or significant amendment, to the regional forester for approval. The regional forester shall review the transmittal and take either of the following actions:

(1) Approve the transmittal, which may become effective 30 days after filing the final environmental impact statement and attach to the plan a statement documenting approval; or

(2) Disapprove the transmittal, which shall be returned to the forest supervisor with a written statement of the reasons for such disapproval.

(f) *Administrative review.* For purposes of administrative review pursuant to § 211.19 of this title, the approval of the plan, revision, or significant amendment, shall be the only decision subject to review. The period for submission of a notice of appeal shall run from the date of approval of the plan.

(g) *Conformity.* As soon as practicable after approval of the plan, revision, or significant amendment, the forest supervisor shall insure that, subject to valid existing rights, all outstanding and future permits, contracts, cooperative agreements, and other instruments for occupancy and use of affected lands are in conformity with the plan. In addition, all subsequent administrative activities affecting such lands, including budget proposals, shall be in compliance with the plan. Changes in the scheduling of management activities proposed in the forest plan may be made by the forest supervisor to respond to differences between annual budget proposals and appropriated funds. Such scheduled changes will be considered an amendment to the forest plan, but shall not require preparation of an environmental impact statement unless the changes significantly alter the relationship between levels of multiple-use goods and services projected under planned budget proposals as compared to those levels projected with actual appropriations.

(h) *Amendment.* The Forest Service may amend a plan through an environmental assessment. Such an amendment will be deemed significant if the assessment indicates the need to prepare an environmental impact statement. If such a need is indicated the amending process will follow the same procedure as for the preparation of the plan. If the amendment is determined not to be significant, it may be implemented by the forest supervisor after public notice.

(i) *Revision.* A forest plan must be revised at least every 15 years, or whenever the forest supervisor determines that conditions in the area covered by the plan or the demands of the public have changed significantly. Revisions will not become effective until considered and approved in accordance with the requirements for the development and approval of a forest plan. In the forest supervisor will review the conditions on the land covered by the plan at least ever 5 years to determine whether conditions have changed significantly.

§ 219.9 Forest planning process.

In the preparation of a proposed forest plan, revision, or significant amendment, the interdisciplinary team, as directed by the forest supervisor, shall follow a process in compliance with the National Environmental Policy Act of 1969 and its regulations. That process generally shall include at least the following actions:

(a) *Identification of issues, concerns, and opportunities.* Public issues, management concerns, and resource use and development opportunities identified through public involvement activities will be analyzed continually in the planning process by the interdisciplinary team. These analyses will be periodically reviewed by the forest supervisor who shall determine the major issues, management concerns, and use and development opportunities to be addressed in the planning process. The interdisciplinary team may recommend additions or changes for consideration and decision by the forest supervisor.

(b) *Development of planning criteria.* Criteria will be prepared to guide development of the forest plan, revision, or significant amendment, throughout the planning process. Planning criteria usually will apply to collection and use of inventory data and information, analysis of the management situation, the design and formulation of alternatives, and the estimate of effects of alternatives. Criteria will be used to evaluate alternatives and to select one alternative to serve as the proposed forest plan. Planning criteria may need to be revised as planning proceeds, and the interdisciplinary team will make a record of any significant change in the criteria. Generally, criteria will be based on:

(1) Laws, executive orders, and regulations;

(2) Goals and objectives in the renewable resource program and regional plans, and policy statements from higher officials;

(3) Recommendations developed from public issues, management concerns, and resource use and development opportunities; and

(4) The technical, financial, economic, and political feasibility of management alternatives.

(c) *Inventory data and information collection.* (1) Each forest supervisor shall obtain and keep current inventory data appropriate for making planning and management decisions about the land and the resources under his administrative responsibility. The interdisciplinary team will collect inventory data and information, with pertinent maps, graphic material, and explanatory aids, to the degree necessary to plan effectively and carry out the environmental assessment. Inventory data and information needs may vary as planning problems develop from identification of issues, concerns, and opportunities.

(2) Inventory data must be collected about (i) soils and geology; (ii) natural water occurrences, including quality and quantity, and wetlands and flood plains; (iii) existing plant life, including threatened and endangered species; (iv) existing fish and wildlife, including threatened and endangered species; (v) habitat conditions for selected vertebrate or invertebrate species; and (vi) quantitative data for determining species and community diversity.

(3) Informational needs generally may include: (i) climatic, geologic, soil hazards, wildfire potential, and major insect and disease problems; (ii) existing structural facilities and other physical changes on the land; (iii) existing transportation facilities and systems and transmission corridors for

expected public utility needs; (iv) existing water developments and appropriated and reserved water rights; (v) applicable air and water quality standards; and area designation of air quality; (vi) land ownership patterns and jurisdictions, legislatively and administratively designated areas; (vii) location and extent of existing mineral claims, and known and potential mineral deposits; (viii) economic and social data, such as population and employment patterns; (ix) property included in or eligible for inclusion in the National Register of Historic Places and other cultural resources; (x) quality of visual resource; (xi) fire history and fire management opportunities; and (xii) existing roadless areas.

(4) Methods used to gather inventory data will be consistent with those used to monitor consequences of activities resulting from planning and management. Inventory data and information will be stored for ready retrieval and comparison and periodically will be evaluated for accuracy and effectiveness.

(d) *Analysis of the management situation.* Based upon the inventory data and other relevant information, an analysis of capability and suitability of the area for resource management will be made to determine:

(1) The estimated sustained levels of various goods, services, and uses that may be attained under existing biological and physical conditions and that may be produced under differing management practices and degrees of management intensity;

(2) Special conditions or situations which involve hazards that may cause serious or irreversible damage, and their relationship to alternative activities;

(3) Projections of public demand that may be fulfilled;

(4) Opportunities to resolve public issues and management concerns; and

(5) Opportunities to meet the assigned forest or grassland goals and objectives and public demand.

(e) *Formulation of alternatives.* Based on the analysis of the management situation, a reasonable range of practical alternatives will be formulated by the interdisciplinary team and described in the draft and final environmental impact statements. At least one alternative will be identified as environmentally preferable.

(1) Reasonable range of alternatives. The range will include at least the following alternatives, each of which is capable of being chosen as the selected alternative: (i) a no-action alternative which will represent a level of activity unchanged from that existing; (ii) one or more alternatives will be identified which will represent levels of activity that will result in eliminating all backlogs of needed treatment for the restoration of renewable resources and insure that a major portion of planned intensive multiple-use and sustained-yield management procedures are operating on an environmentally sound basis; (iii) an alternative which approximates the levels of goods and services assigned by the regional plan; and (iv) one or more alternatives formulated to resolve the identified major public issues and management concerns.

(2) Alternative content. Each management alternative will contain at least: (i) a statement of future overall condition and various uses anticipated to be the result of the long-term management of the forest under the alternative; (ii) a statement of the goods and services that can be expected to be produced from selected resources; (iii) a statement of the time and vicinity of management activities which will be expected to occur to accomplish the anticipated production of goods and services, and control and mitigation of adverse environmental effects; and (iv) provisions for diversity of plant and animal communities based on suitability and capability in order to meet overall multiple-use objectives.

(f) *Estimated effects of alternatives.* The interdisciplinary team shall estimate and display the physical, biological, economic, and social effects of implementing each alternative. Estimation of effects will involve at least:

(1) The expected benefits, including production of goods and services, available for the planned time periods; protection and, as appropriate, enhancement of soil, water, and air; and preservation of aesthetic values;

(2) The expected administrative costs of implementation;

(3) The expected changes in physical, biological, economic, and social conditions including, but not limited to: (i) Soil productivity and plant life; (ii) water quantity and quality, flood plains and wetlands and watersheds; (iii) air quality; (iv) recreation opportunities and aesthetic values; (v) fish and wildlife; (vi) anticipated diversity of plant and animal communities compared to that diversity existing in the area being planned and to that diversity which might be expected to occur under natural forces unaffected by people; and (vii) diversity of tree species in relation to that existing and that expected to occur on surrounding areas of similar soils;

(4) The relationship between local, short-term uses of the renewable resources and the maintenance and enhancement of long-term productivity;

(5) The adverse environmental effects which cannot be avoided;

(6) Resource commitments that are irreversible;

(7) Economic effects on the distribution of goods and services and uses, changes in payments to local governments, income, and employment, and economic efficiency. Direct and indirect benefits and costs will be estimated in accordance with standards and practices for economic analysis established by the Chief, Forest Service, that will include:

(i) Economic efficiency analyses, such as effectiveness cost ratio, benefit cost ratio, or present net worth, and procedures for calculating appropriate benefits and costs of activities occurring throughout the planning period and the interest rate to be used;

(ii) Benefits to include the real dollar value of all outputs attributable to the plan alternatives, except that when such values may not be reasonably assigned, physical outputs or relative indexes of value may be used; and

(iii) Real dollar investment and operating costs to be estimated separately;

(8) Social effects including those on minority groups and civil rights; and

(9) Effects on prime farmlands in the areas surrounding the forests.

(g) *Evaluation of preferred alternatives.* The interdisciplinary team will evaluate the significant physical, biological, economic, and social effects of management alternatives according to the planning criteria. The forest supervisor will review the interdisciplinary team evaluation and will recommend a preferred alternative to be indicated in the draft environmental impact statement.

(h) *Selection of alternative.* After publication of the draft environmental impact statement, the interdisciplinary team will evaluate public comments and revise, as necessary, a recommended alternative. The forest supervisor will recommend the selected alternative for the final environmental impact statement using the evaluation criteria developed pursuant to § 219.9(b).

(i) *Plan content.* The interdisciplinary team shall insure that the forest plan consists of one document or set of documents in a standard format containing at least:

(1) A brief description of the identified major public issues and management concerns;

(2) Descriptions and appropriate maps of the area covered by the forest plan;

(3) Goals and objectives from the current regional plan;

(4) Tabulations of expected types and amounts of goods, services, or uses for the time periods given in the regional plan;

(5) Proposed vicinity, timing, and standards and guidelines for proposed and probable activities;

(6) Monitoring and evaluation requirements;

(7) Appropriate references to information used in development of the forest plan; and

(8) The names of the interdisciplinary team members, together with a summary of each member's qualification in a particular discipline.

(j) *Monitoring and Evaluation.* At intervals established in the forest plan, an evaluation must be made to determine how well objectives of the forest plan have been met. Management activities associated with each of the resources planned shall be evaluated through monitoring on an appropriate sample basis.

(1) Monitoring requirements in the plan shall include descriptions of: (i) those activities to be measured, and the frequency of measurements; (ii) expected precision and reliability of the monitoring process; and (iii) when evaluation reports will be prepared.

(2) Evaluation reports must be prepared and for each management activity monitored contain at least the following: (i) A quantitative estimate of performance; (ii) documentation of measured effects, including any change in productivity of the land; (iii) recommendations for changes; and (iv) a list of needs for continuing evaluation of management systems and for alternative methods of management.

(3) Based upon the evaluation reports, the interdisciplinary team will recommend to the forest supervisor such changes in management direction, or revisions or amendments to the forest plan as deemed necessary to meet the forest goals and objectives on an environmentally sound basis.

§ 219.10 Resource management standards and guidelines.

Standards and guidelines set forth in this section will, as appropriate, be included in planning criteria or be applied during the appropriate action in the planning process.

(a) *Fish and Wildlife Resource.* A principal responsibility of the Forest Service is to manage habitats in order to maintain viable populations of all existing vertebrate species and to maintain and improve habitat of selected species. To meet that responsibility, management planning of the fish and wildlife resource will include the requirements set forth in paragraphs (1) through (8).

(1) The desired future condition of fish and wildlife, where technically possible, will be stated in terms both of animal population trends and of amount and quality of habitat.

(2) Selected species will be identified as management concerns for planning. Selected species are fish and wildlife indicator species selected because their population changes are believed to indicate effects of management activities on a number of other species or water quality, including at least: Endangered and threatened species identified on State and Federal lists; species with special habitat needs that may be influenced significantly by planned management programs; and species commonly hunted, fished or trapped. Modifications of the habitat of such species by proposed management activities will be analyzed for their effect on populations and mitigation of adverse effects will be prescribed. Such measures will consider year-long suitability of the habitat for selected species relating to their mobility.

(3) Resource use and development management decisions affecting selected species will be coordinated with the appropriate State fish and wildlife agency.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses will be considered.

(5) The effects of pest management on fish and wildlife populations will be considered.

(6) The relationship of population trends to habitat changes of selected species will be determined by monitoring such species with State fish and wildlife agencies.

(7) Critical habitat for threatened and endangered species will be determined, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Consideration shall be given to opportunities for improving their habitat.

(8) Effects of proposed changes in diversity on fish and wildlife will be evaluated.

(b) *Range resource.* Management planning that affects the range resource will include the standards and guidelines set forth in paragraphs (1) through (7) to determine the ability of the range to supply long-term grazing and browsing and to prescribe the range management systems planned.

(1) Range condition, range trend, successional stages of vegetation and changes in the diversity of plant and animal communities will be determined.

(2) Records of current levels of use by grazing and browsing animals will be maintained.

(3) Existing or potential grazing or browsing competition between animals will be evaluated.

(4) Existing and potential development and management systems will be considered.

(5) Records of existing permits, cooperative agreements, and other relevant obligations will be maintained.

(6) Plans shall comply with laws relating to the use of the range resource, particularly the Federal Land Policy and Management Act of 1976, the Bankhead Jones Farm Tenant Act (50 Stat. 525, as amended), and the Wild Horses and Burros Protection Act (85 Stat. 649).

(7) The economic and social impacts on small communities and the local livestock industry will be evaluated in the selection of alternatives for management.

(c) *Recreation resource.* Management planning will provide for resource activities to enhance a broad spectrum of recreation opportunities to meet the needs and demands identified and will include the requirements set forth in paragraphs (1) through (5).

(1) Present and potential recreational opportunities for both dispersed-and-undeveloped and concentrated and developed areas will be determined.

(2) Recreational opportunities present and available on public and private lands adjoining and near the area being planned will be determined and coordinated with the owners of such lands to reduce duplication in meeting recreational demands.

(3) The deficiencies or excess of recreational facilities to meet present and future needs will be determined.

(4) Adding, eliminating or rehabilitating recreation development will be considered.

(5) Modification of land ownership patterns to meet present and future recreational needs will be considered.

(d) *Timber resource.* To insure production of timber products and related forest benefits, the requirements and procedures set forth in this paragraph will be included in the planning process.

(1) As used in paragraph (d), the following definitions apply:

(i) "Allowable sale quantity": The quantity of timber that may be sold from the area of land covered by the forest plan for a time period specified by that plan. This quantity is usually expressed as an average annual sell volume.

(ii) "Even-aged management": The actions that result in a forest or stand of trees having no, or relatively small, differences in age. Forests are manipulated for periodic regeneration of desirable species, the orderly growth and development of trees to a given size in each stand, and progressive development of harvestable stands. Managed even-aged forests are characterized by a distribution of stands of varying ages (size classes) throughout the forest. Regeneration occurs at or near the time of complete harvest when the stand reaches the desired age or size. Stands may be treated between commercial harvests with thinnings, weedings or other cultural treatments. Three common alternative silvicultural systems available for achieving the objectives of even-aged manage-

ment are: shelterwood, seed-tree, and clearcutting.

(iii) "Long-term sustained yield capacity": The highest uniform wood yield from those lands in a forest being managed for timber production that may be sustained under a specified intensity of management consistent with multiple-use objectives.

(iv) "Silvicultural systems": A process, following accepted silvicultural principles, whereby forests are tended, harvested and replaced, resulting in the production of forests of distinctive form and character. Systems are classified according to the method of harvest chosen to control the establishment, composition, and growth of the forest.

(v) "Timber harvest schedule": A description of quantity and the time period in which timber is planned for sale and harvest from the area of land covered by the forest plan and the silvicultural systems that will be used. The first period, usually a decade, of the selected harvest schedule provides the allowable sale quantity. Future periods are shown only to establish that sustained yield will be achieved and maintained.

(vi) "Timber production": The growing, tending, harvesting, and regeneration of regulated crops of industrial wood. Industrial wood includes logs, bolts, or other round sections cut from trees for industrial or consumer use except fuelwood.

(vii) "Uneven-aged management": The manipulation of a forest for a continuous high-forest cover, recurring regeneration of desirable species, and the orderly growth and development of trees through a range of age or diameter classes. Managed unevenaged forests are characterized by trees of many ages and sizes in groups. Trees are harvested singly (individual tree selection silvicultural system) or in groups (group selection silvicultural system). The process of regeneration of the desirable species occurs either continuously or at each harvest.

(2) Timber producing lands. Each forest plan shall identify lands available, capable, and suited for timber production. This identification will occur as two distinct actions in the planning process.

(i) In the collection and use of inventory data and information, all national forest system lands will be reviewed and lands will be identified as:

(A) Not capable for timber production if the biological growth potential for the land is below the minimum standard for timber production as defined by the regional plan;

(B) Not available for timber production if the land is legislatively or administratively withdrawn from timber production; or

(C) Not suited for timber production if no technology has been developed or is expected to be developed in the next 10 years that will enable timber production from the land either without irreversible resource damage to soils, productivity, watershed conditions, or significant adverse impact on threatened or endangered species, and with reasonable assurance that such lands can be adequately restocked within 5 years after final harvest.

(ii) During formulation of alternatives and alternative evaluation and selection, combinations of resource activities must be defined and evaluated in terms of meeting management objectives. During these actions, land that has been classed as capable, available, and suited for timber production in paragraph (i) (A), (B), and (C), will be further reviewed and identified as:

(A) Not available for timber production if those lands will be managed to meet objectives specified for the area by the regional plan that either preclude timber production or if that management limits timber production to the point where the silvicultural systems standards and guidelines set forth in paragraph (3) cannot be met; or

(B) Not suited for timber production if those lands are not needed to meet the multiple-use objectives specified in the regional plan and an economic analysis reveals that the lands are not efficient for producing timber.

(iii) No timber harvesting shall occur on lands classified as not suitable for timber production during the planning period as provided under paragraphs (i)(C) and (ii)(B) above, except that salvage sales or sales necessary to protect other multiple-use values or activities that meet other objectives may be made if the forest plan establishes that such actions are appropriate and that timber will be harvested in accordance with the provisions of paragraph (3). When the plan is revised, or at least every 10 years, all lands classified as not capable, available and suitable for timber shall be reviewed and, where changed conditions permit, lands will be reclassified as capable, available and suitable for timber production. Lands classified as not suitable for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of multiple-use values.

(3) Silvicultural systems. Two timber management options, even-age management and uneven-aged management, and their several silvicultural systems shall be considered when formulating and evaluating management alternatives. Silvicultural systems may be used to achieve a variety of objectives in addition to that of timber production. The standards and guidelines in paragraphs (i) through (vi) shall govern the selection and implementation of silvicultural systems and associated practices for each forest type.

(i) The system selected must be appropriate to achieve specified multiple-use goals established for the planned area. They shall not be selected primarily because they will give the greatest dollar return or the greatest unit output of timber, although these factors shall be considered. Long-term cost and long-term benefits shall be used in economic analysis rather than immediate or short-term returns.

(ii) The system must be selected only after a thorough review of pertinent technical and scientific literature, evaluation of the relevance of this literature to specific forest and site conditions, and review of practical experience.

(iii) The system selected must:

(A) Assure that lands can be adquately restocked with 5 years after final harvest;

(B) Not allow significant or permanent impairment of the productivity of the site;

(C) Provide a means of minimizing serious or longlasting hazards from insects, disease, windthrow, wildfire, or other natural forces;

(D) Assure protection for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from serious and adverse effects on water quality of fish habitat due to detrimental changes in water temperature, blockages of water courses, deposits of sediment, or detrimental effects of biocides and fertilizers; and

(E) Provide where appropriate, and to the degree practicable, for steps to preserve the diversity of tree species similar to the tree species diversity existing in the region to be covered by the plan.

(iv) Clearcutting may be used only when it is determined to be the optimum method of silviculture for a specific forest type, and after potential environmental, biological, esthetic, engineering, and economic impacts have been assessed and found acceptable. Optimum method means that it is the system which is most favorable and conducive to the achievement of multiple-use goals specified in the forest plan.

(v) In the application of an even-aged silvicultural system, the blocks or strips cut shall be shaped and blended with the natural terrain to achieve esthetic and wildlife habitat objectives to the extent practicable.

(vi) In application of any even-aged silvicultural system, individual cut blocks, patches, or strips must conform to the maximum size limits for areas to be cut in one harvest operation established by the regional plan according to geographic areas and forest types. The following factors

must be considered in determining size limits by geographic areas and forest types: topography; relationship of units to other natural or man-made openings and proximity of units; coordination and consistency with adjacent forests and regions; effects on water quality and quantity; effects on wildlife and fish habitat; regeneration requirements for desirable tree species based upon the latest research findings; transportation and harvesting system requirements; natural and biological hazards to survival of residual trees and surrounding stands; and relative total costs of preparation, logging, and administration of harvest cuts of various sizes. The size limits may be exceeded after 30 days public notice and after review by the responsible official one level above the official who normally would approve the harvest proposal. The established limit shall not apply to the size of areas harvested as a result of natural catastrophic condition such as fire, insect and disease attack or windstorm.

(vii) Cultural treatments such as thinning, weeding, and other partial cutting may be included in the forest plan where they are intended to increase the rate of growth of remaining trees, favor commercially valuable tree species, favor species or age classes which are more valuable for wildlife or to achieve other multiple-use objectives.

(4) Determination of the allowable sale quantity. The interdisciplinary team shall formulate management alternatives that include determination of the quantity of timber that may be sold during the planning period. These determinations must be based on the principle of sustained yield and consider only those lands capable, suitable, and available for timber production which meet the silvicultural standards and guidelines in paragraph (3). For each management alternative, the determination must include a calculation of the long-term sustained yield capacity and the base harvest schedule and, when appropriate, a calculation of timber harvest schedule alternatives that may depart from the base harvest schedule as provided in paragraphs (i) through (iii).

(i) For the base harvest schedule the planned sale and harvest for any future decade must be equal to or greater than the planned sale and harvest for the preceding decade provided that the planned harvest is not greater than the long-term sustained yield capacity.

(ii) The determinations of the long-term sustained yield capacity, base harvest schedules, and departure alternatives to the base harvest schedule will be made on the basis of the guidelines which follow.

(A) For the long-term sustained yield capacity and the base harvest schedule assume an intensity of management and degree of timber utilization consistent with the goals, assumptions, and standards contained in, or used in the preparation of, the current renewable resource program and regional plan. For the long-term sustained yield capacity the management and utilization assumptions must reflect those projected for the fourth decade of the regional plan. For the base harvest schedule the management and utilization assumptions must reflect the projected changes in practices for the four decades of the regional plan. Beyond the fourth decade, the assumptions must reflect those projected for the fourth decade of the regional plan.

(B) For departure alternatives to the base harvest schedule which provide outputs above the current regional plan, assume an appropriate management intensity.

(C) In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period shall generally have reached the culmination of mean annual increment of growth. Mean annual increment must be based on management intensities and utilization standards assumed in paragraphs (A) and (B) of this paragraph and expressed as units of measure consistent with the regional plan. Exceptions to these standards are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack; or for the removal of particular species of trees after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of a forest plan.

(D) For all harvest schedules, achieve a forest structure by the conclusion of the scheduling period that will enable perpetual timber harvest thereafter at the long-term sustained yield capacity, consistent with the long-range multiple-use objectives of the alternative.

(iii) Departures from the base harvest schedules will be considered and formulated when any of the following conditions occur.

(A) None of the timber harvest alternatives formulated has the capacity to produce the goods, services or uses to meet objectives specified for the area by the regional plan.

(B) Attainment of the multiple-use objectives of the forest plan will be enhanced by more rapid and efficient achievement of the long-term sustained yield capacity of the forest owing to present forest structure or by reducing high mortality losses.

(C) Implementation of the base harvest schedule would cause instability or dislocation in the economic area in which the forest is located.

(5) *Harvest schedule selection.* Selection of a harvest schedule must be made following a comparison of management alternatives. This comparison must include an evaluation of the sustained yield goal, silvicultural standards and guidelines, and the effects of timber removal on other resources. The selected harvest schedule provides the allowable sale quantity, or the quantity of timber that may be sold from the area of land covered by the forest plan for the plan period. Within the planning period the volume of timber to be sold in any one year may exceed the average annual allowable sale quantity so long as the the total amount sold for the planned period does not exceed the allowable sale quantity. Nothing in this standard shall prohibit the responsible Forest Service official from providing for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack, provided such harvest is consistent with silvicultural and environmental standards. This timber may either substitute for timber that would otherwise be sold under the plan or, if not feasible, be sold over and above the planned volume.

(6) *Control measures.* As a minimum, control measures must be established to insure that:

(i) Harvest levels based on intensified management practices are decreased no later than the end of each planning period if such practices cannot be completed substantially as planned;

(ii) Prior to sale the potential physical, biological, aesthetic, engineering, and economic impacts have been assessed on each advertised sale area, as well as the consistency of the sale with the multiple uses of the general area, providing that harvested areas should be dispersed so that normal streamflow characteristics are not appreciably changed;

(iii) Cut blocks, patches, or strips are shaped and blended to the extent practicable with the natural terrain to achieve aesthetic and wildlife habitat objectives; and

(iv) Timber harvest cuts designed to regenerate an even-aged stand of timber are carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, recreation, and aesthetic resources, and the regeneration of the timber resource.

(7) *Monitoring.* As a minimum, monitoring measures must be established to insure that:

(i) Lands are adequately restocked within the time planned for regeneration after the final harvest cut;

(ii) Lands identified as not suited for timber production will be examined to determine if conditions have changed so that these lands may be returned to timber production at the time of revision of the forest plan or every 10 years; and

(iii) Maximum size limits for areas to be cut in one entry are evaluated to determine whether such size limits continue to meet silvicultural and management objectives.

(e) *Water and soil resources.* In order to provide high-quality water sufficient to meet human and environmental needs and to insure protection from loss of life, property, or physical and biological values resulting from floods, avalanches, and other water-related events, the requirements set forth in paragraphs (1) through (6) will be followed in planning the management of water and soil resources.

(1) Current water uses (both consumptive and non-consumptive) within the area of land covered by the forest plan, including instream-flow requirements, will be determined.

(2) Existing impoundments, transmission facilities, wells, and other man-made developments on the area of land covered by the forest plan will be identified.

(3) The probable occurrence of various levels of water volumes, including extreme events which would have a major impact on the planning area, will be estimated.

(4) Plans shall comply with the requirements of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Safe Drinking Water Act, and all substantive and procedural requirements of Federal, State, and local governmental bodies with respect to the provision of public water systems and the disposal of waste water.

(5) Existing or potential watershed conditions that will influence soil productivity, water yield, water pollution, or hazardous events, will be evaluated.

(6) Measures, as directed in applicable Executive orders, to minimize risk of flood loss and to restore and preserve floodplain values, and to protect wetlands will be adopted.

(f) *Wilderness resource.* Each forest plan will provide management planning for lands which are designated units of the National Wilderness Preservation System and for lands specifically designated for wilderness study by Congress or recommended by the administration for possible inclusion in the system.. The requirements set forth in paragraphs (1) through (4) shall apply to all forest plans.

(1) The interdisciplinary team will collect and use information about existing and potential wilderness values for those lands identified by Congress or by the Forest Service as lands suitable for further study for possible inclusion in the system. Lands identified in previous planning processes as lands to be managed for purposes other than wilderness need not be assessed for wilderness in development of the initial generation of forest plans prepared under these regulations.

(2) During the 15-year revision of forest plans, the wilderness resource present within the following areas of Federal lands will be considered:

(i) Existing wilderness and primitive areas;

(ii) All previously inventoried wilderness resource not yet designated;

(iii) Areas contiguous to existing wilderness, primitive areas, or administration-proposed wildernesses, regardless of agency jurisdiction;

(iv) Areas, regardless of size, that are contiguous to roadless and undeveloped areas in other Federal ownership that have identified wilderness potential;

(v) Areas not to be evaluated, where statutory rights or contractual agreements exist which would make future management of the area in its natural condition infeasible, e.g., cost-share road agreements;

(vi) Areas designated by Congress for wilderness study, administration proposals pending before Congress, and other legislative proposals pending which have been endorsed by the administration.

(3) For areas included under paragraph (2) above, the following considerations will be applied to determine the appropriateness of such lands for wilderness designation:

(i) The imprint of human activities and nonconforming uses in the area;

(ii) The landownership patterns and land-use factors;

(iii) The relative suitability of the area to provide opportunities for challenge, solitude, and primitive types of recreation activities;

(iv) The size of the area in relation to the retention of wilderness character;

(v) The opportunities to provide educational, scenic, historical, and scientific values;

(vi) Unique features present in the area, such as animal and plant life, landform, geology, historical and cultural features;

(vii) Each area's wilderness attributes in terms of possible contributions to meeting the demand for National Wilderness Preservation System areas; and

(viii) The effect on the management of adjacent lands.

(4) The forest plan must provide direction for the management of designated wilderness and primitive areas. Particular attention must be given to determining when the level of visitor use must be held to levels that allow the natural processes to operate freely without being unduly upset or changed and allow for achieving the purposes for which wilderness areas are established.

§ 219.11 Research.

(a) Research needs for management of the National Forest System will be identified during the planning process and reviewed subsequently on a continuing basis through evaluation of implemented plans. These needs will be included in formulating overall programs involving research needs on other public lands and on industrial and nonindustrial private lands.

(b) Research priorities for management of the National Forest System will be established and budgeted at the research station and national levels based on input from the National Forest System at all planning levels.

(c) An annual report at the national level will include, but not be limited to, a description of the status of major research programs, significant findings, and how those findings are to be applied in National Forest System management.

§ 219.12 Transition period.

Until such time as an area of National Forest System land is managed under a forest plan approved by the regional forester, such areas of land may continue to be managed under existing land-use and resource plans. As soon as practicable existing plans will be amended or revised to incorporate standards and guidelines in this subpart. Pending approval of a forest plan, existing plans may be amended or revised to include management requirements not inconsistent with the provisions of the Forest and Rangeland Renewable Resources Planning Act, as amended, and these regulations.

PRELIMINARY REPORT OF THE COMMITTEE OF SCIENTISTS TO ACCOMPANY PUBLICATION OF DRAFT REGULATIONS FOR IMPLEMENTING SECTION 6 OF RENEWABLE RESOURCES PLANNING ACT, AS AMENDED

In an effort to assure an independent evaluation of the adequacy of the regulations for implementing the technical planning provisions of section 6 of the Forest and Rangeland Renewable Resources Planning Act (RPA), as amended by the National Forest Management Act of 1976, Congress directed the Secretary of Agriculture (in section 6h) to establish a Committee of Scientists. The committee is to "provide scientific and technical advice and counsel on proposed guidelines and procedures to

assure that an effective interdisciplinary approach is proposed and adopted." Although NFMA relates this charge specifically to subsection (g) of section 6, the structure of section 6, and of NFMA generally, makes it operationally impossible to limit analysis of technical provisions to section 6(g) alone.

The Secretary of Agriculture enlisted the National Academy of Sciences (NAS) to help him select the members of the committee and to further define its duties and operating procedures. The committee was chosen in the spring of 1977 from among a list of nominees suggested by NAS. The members of the committee are: Thaddeus Box, Utah State University, Logan, Utah; R. Rodney Foil, Mississippi Agricultural and Forestry Experiment Station, Mississippi State, Miss.; Ronald W. Stark, University of Idaho, Moscow, Idaho; Earl L. Stone, Cornell University, Ithaca, N.Y.; Dennis E. Teeguarden, University of California, Berkeley, Calif.; William L. Webb, previously State University of New York, Syracuse, N.Y., now retired in Sanibel, Fla.; and the chairman, Arthur W. Cooper, North Carolina State University, Raleigh, N.C.

At its first meeting in Washington in late May 1977, Dr. M. Rupert Cutler, speaking for the Secretary of Agriculture, expanded the committee's duties to include all parts of section 6 of NFMA, as the National Academy of Sciences had proposed when it recommended that "The committee deliberations should embrace all parts of section 6 of the Act." Dr. Cutler also stressed the need for public participation in the development of the regulations. The committee expanded its own role slightly to include an assessment as to how well the proposed regulations meet the intent of Congress as expressed in NFMA, as suggested in the legislative history of the act.

The procedures used by the Forest Service and the committee in developing the regulations are outlined in the introduction to them. Although the committee actually assisted in the writing of substantial portions of the proposed regulations, and thus exceeded the evaluative role envisioned for it in NFMA, it wishes to stress that the regulations proposed here in the FEDERAL REGISTER are the Secretary of Agriculture's and not the committee's. The committee makes this statement not to excape any responsibility for formulating the regulations, but to emphasize that it has not taken to itself a responsibility vested by Congress in the Secretary.

Section 6(h) of NFMA also requires the committee to present its views "in the public information supplied when the regulations are proposed for adoption." It is clear that Congress intended that these published "views" reflect the committee's technical evaluation of the regulations and that this analysis should be available both as advice to the Secretary and as information to assist the public in its evaluation. Ideally, these views should be published together with the proposed regulations.

As indicated, the committee has worked closely with the Forest Service throughout the drafting of the proposed regulations. Their general organization reflects the committee's views and, in many places, the final wording of certain sections either tracks language proposed by the committee or reflects basic concepts it has advanced. The minutes of the committee's meetings document its work with the Forest Service and provide drafts of original materials used by the committee in making its recommendations. These minutes are available from the Forest Service in Washington, D.C., or at the Regional Foresters' offices.

During the final months of work, it became clear that there were perhaps five issues—diversity, identification of lands not suitable for timber production, silvicultural guidelines, timber harvest scheduling, and identification and management of wilderness—that represented the most difficult and controversial subjects with which the regulations had to deal. Discussion of these issues among the committee and the Forest Service was intense. Furthermore, important new public input on them was received so late that the committee was unable to evaluate it adequately. In the 2 months immediately preceding publication, the treatment of these issues has been under continued discussion and has changed several times. In addition, final editing of the entire regulation has resulted in an organization and wording different from that previously reviewed by the committee.

The committee's charge is to provide its views on the technical adequacy of the regulations. Such evaluation requires the exercise of scientific judgment, takes time, and is fully as difficult to conduct as a review for legal sufficiency. Furthermore, to be of any real use, it must be based precisely upon the version of the regulations published in the FEDERAL REGISTER. The committee has not yet seen the modifications made in the Secretary's office, nor has it received a copy of the version published in the FEDERAL REGISTER. Although the committee has obviously seen all prior versions, it nonetheless believes that it would have required another month to evaluate the proposed regulations thoroughly enough to prepare a report that would speak to the significant issues. Obviously, if the committee took this time, publication of the regulations and review of them by the public would have been further delayed.

In the interests of timely public review of these important regulations, the committee has chosen not to publish its technical review with the proposed regulations. Instead, that review will be carried out during the public comment period. In that way, important issues can be analyzed properly in the light of the committee's experience and in consideration of the views of the public. The committee will present its report to the Secretary of Agriculture prior to the time he makes his final decision on the content of the regulations. Thus, he will have benefit of the committee's views as he makes his final decision. The committee's report will also be published in the FEDERAL REGISTER so that the public may be informed of its final views.

The committee has come to this decision with regret. It realizes its responsibility to evaluate the adequacy of the proposed regulations in light of its own understanding of NFMA. Nonetheless, it does not wish to carry out a hasty evaluation that might be technically flawed. Such an evaluation would be more misleading than helpful and would hardly further the thoughtful implementation of NFMA. Because a technically adequate evaluation now would have required valuable time that could otherwise have been devoted to public review, the committee has concluded that the greater public good will be served by publication of the regulations now without further delay.

August 14, 1978.

Respectfully submitted,

ARTHUR W. COOPER,
Chairman, For the Committee of Scientists.

LANGUAGE PROPOSED FOR § 219.10(d) (2) AND (4) BY REPRESENTATIVES OF ENVIRONMENTAL GROUPS AND TIMBER INDUSTRY GROUPS

1. Environmental groups proposal:

(a) *"Proposed regulations for lands not available, capable, or suited for timber production."*

§ 219.10(d)(2) *Timber producing lands.* Each forest plan shall identify lands available, capable, and suited for timber production. This identification will occur at two distinct points in the planning process.

(i) In the collection of inventory data and information, all national forest system lands will be reviewed and lands will be identified as:

(A) not capable for timber production if the biological growth potential for the land is below 50 cubic feet per acre per year of industrial wood in natural stands, or such higher standard as may be established in the regional plan;

(B) not available for timber production if the land is legislatively or administratively withdrawn from timber production;

(C) not suited for timber production if:

(1) they consist of isolated tracts of commercial forest land ("stringers") such that organizing and scheduling maintained periodic harvest is impractical;

(2) they contain nonmarketable timber species;

(3) slope is equal to or greater than the angle of repose of the soil, or the critical angle for slope stability;

(4) lands have soil types for which erosion rates during the first 10 years following logging would cause loss of soil greater than the amount that would be generated naturally through periodic weathering during one period of rotation; or

(5) no technology has been developed or is expected to be developed in the next 10 years, that is or will be available and feasible for use in the forest during such period, that will enable timber production from the land without significant or long-lasting resource damage to soils, productivity, or watershed conditions; without significant adverse impact on threatened or endangered species; and with assurance that such lands can be adequately restocked within 5 years after final harvest.

(ii) During formulation of alternatives and alternative evaluation and selection, in which various combinations of resource activities are defined and evaluated, land that has been classified as capable, available and suited for timber production pursuant to § 219.10(d)(2)(i) (A) and (B) will be further reviewed and identified as:

(A) not available for timber production if those lands will be managed to meet objectives of the forest plan that either preclude timber production or limit timber production to the point where silvicultural systems could not be employed within the standards and guidelines for silvicultural systems and resource protection contained in these regulations and in the forest plan; and

(B) not suited for timber production if the anticipated direct benefits from growing and harvesting timber are less than the an-

ticipated direct costs to the government, including interest on capital investments required by timber production activities. Specific standards and practices for making the economic analysis required by this section are to be established by the Chief, in regulations which shall be effective on the same date as these regulations, and shall be applied uniformly and nationally: *Provided*, That in determining net benefits from timber production the following principles shall be followed:

(1) direct benefits include the anticipated revenue from harvesting timber crops, and any benefits that can be reasonably attributed to increased production of other services such as forage, water flows, and wildlife;

(2) direct costs include the anticipated investments, maintenance, and operating management and planning costs attributable to timber production activities, and any costs that can be reasonably attributed to decreased production of other services and to mitigation measures necessitated by the impacts of timber production. In the case of roads, only the additional investments in the road system required by timber growing and harvesting activities are to be included in direct costs; and

(3) the rate of interest used to discount future benefits and costs shall be equal to the rate expected for alternative uses of Federal funds, as set by the Office of Management and Budget.

(iii) No timber harvesting shall occur on lands classified as not capable or not available for timber production.

No timber harvesting shall occur on lands classified as not suited for timber production for a period of 10 years except that salvage sales necessitated by natural catastrophic conditions or sales necessary to protect multiple-use values other than timber production may be made if the forest plan establishes that such sales are necessary and that they will be harvested in accordance with the provisions of § 219.10(d)(3) (Silvicultural Systems). After 10 years (or upon revision of the forest plan) classifications of lands as suited or not suited for timber production shall be reviewed and, where appropriate due to changed conditions, revised. Lands classified as not suited for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of multiple-use values."

(b) *"Proposed regulations for departures from nondeclining yield."*

Note Need for Conforming Amendments: Under the following proposal, only nondeclining yield timber harvest scheduling would be used in preparing alternative forest plans. Harvest schedules that depart from nondeclining yield would be considered only after a forest plan was approved. Therefore, if the following regulations were adopted, other sections of the draft regulations covering harvest scheduling in the development of forest plans would have to be amended to delete references to schedules that depart from the base harvest schedule. The nonconforming sections are § 219.10 (d)(4), (d)(4)(ii), (d)(4)(ii)(B) and (D), and § 219.10(d)(5). the following material would appear immediately preceding § 219.10(d)(6).

§ 219.10(d)( ) *Departures from the Base Harvest Schedule.* At anytime after a forest plan is approved, the plan may be amended to increase or decrease the allowable sale quantity as follows:

(i) The regional forester may submit to the chief a report recommending that consideration be given to adopting a departure from the allowable sale quantity established in a forest plan if it appears that attainment of the multiple use objectives of the forest plan would be enhanced by:

(A) Improving the age-class distribution on the forest to facilitate future sustained yield management in a manner that could not be accomplished under the forest plan.

(B) Reducing high mortality losses that could not be captured under the forest plan; or

(C) Reducing conflicts attributable to timber harvesting under the base harvest schedule.

(ii) The regional forester's report shall state the reasons supporting his recommendation, based on existing information, and shall also at a minimum:

(A) Identify lands where increased or decreased timber harvesting would occur under a departure from the base harvest schedule and conflicts that such change in harvest level might create with management direction established by the forest plan; and

(B) Describe management activities and opportunities that could increase net timber growth and productivity without necessitating a departure from the base harvest schedule.

(iii) The chief, after review of the report, may direct the forest supervisor to prepare proposals for departures from the base harvest schedule. Such proposals shall be evaluated in a draft and final EIS, which shall be supplemental to the forest plan EIS and shall amplify and develop the information required in the regional forester's report. Public hearings shall be held as part of the public review of the draft EIS.

(iv) In formulating departures from the base harvest schedule, the following shall be required:

(A) Each departure proposed shall reflect direction management established in the forest plan regarding constraints on harvest, type of silvicultural systems to be used, and silvicultural standards and guidelines. Lands that would be affected by the increase or decrease in harvest level shall be specifically identified.

(B) Each departure schedule shall (1) assume a degree of timber utilization and management intensities consistent with those assumed in the preparation of the base timber harvest schedule; (2) demonstrate that forest structure by the end of the planning horizon would enable perpetual harvest thereafter at the long-term sustained yield capacity, consistent with the long-term multiple use objectives of the forest plan; and (3) if the departure would increase the allowable sale quantity above the base harvest schedule, never permit harvest levels to decline below long-term sustained yield capacity.

(v) Each departure shall be evaluated in accordance with regulations covering estimating effects of alternatives and compared with the forest plan. Such comparison shall include an evaluation of the consistency of the departure with the multiple-use objectives of the forest plan.

(vi) The Secretary may, after review of the final EIS, approve a departure that establishes a revised allowable sale quantity for the forest plan if he finds that:

(a) Funding will be available to permit harvest at the revised level;

(B) The departure would permit improvement of age-class distribution to facilitate future sustained yield management, reduction of high mortality losses, or reduction of conflicts attributable to timber harvesting, more effectively than does the base harvest schedule;

(C) Implementation of the departure would facilitate the achievement of overall multiple-use objectives for the forest. "Overall multiple-use objectives" means the whole combination of integrated forest plan objectives for management of the fish and wildlife, range, recreation, timber, water and watershed and wilderness resources. In order for the Secretary to find that the achievement of overall multiple-use objectives would be facilitated, he must find that the forest's ability to more effectively achieve a multiplicity of objectives, other than or in addition to objectives for timber production, would be enhanced; and

(D) Implementation of the departure would be consistent with the multiple-use objectives of the forest plan (other than objectives as to the quantity of timber to be produced and sold). To find "consistency," the Secretary must determine that implementation of the alternative, including mitigation measures, would not prevent the forest from achieving any of such multiple-use objectives.

(vii) If a departure is approved, additional monitoring requirements shall be included in the forest plan to assure that silvicultureal treatments proposed to improve age-class distribution or reduce high mortality losses are carried out in the stands identified as requiring such treatment."

2. Timber Industry Groups Proposal:

(a) *"Proposed Regulations for Lands Not Available, Capable, or Suited for Timber Production.*

Note Need for Conforming Amendments in § 219.4: A key factor upon which suitability determinations will be made is the goals assigned to the forest through the regional plan from the RPA program. Therefore, § 219.4 should be strengthened to make it clear that the RPA assessment must evaluate the capabilities of individual national forests and regions to provide various combinations of goods and services as a basis for development of the programs.

§ 219.10(d)(2) *Timber producing lands.* Each forest plan shall identify lands available, capable, and suited for timber production. This identification will occur at two distinct actions in the planning process.

(i) In the collection and use of inventory data and information for the Renewable Resource Assessment, all National Forest System lands will be reviewed and lands will be identified as:

(A) Not capable for timber production if the biological growth potential for the land is below the minimum standard for timber production as defined by the regional plan.

(B) Not available for timber production if the land is legislatively or administratively withdrawn from timber production; or

(C) Not suited for timber production if no technology has been developed or is expected to be developed in the next 10 years that will permit timber harvest activities which meet the silvicultural guidelines set forth in paragraph (3).

(ii) During formulation of alternatives and alternative evaluation and selection during the development of a forest plan, combinations of resource activities must be defined and evaluated in terms of meeting management objectives. During these actions, land that has been classed as capable, available, and suited for timber production in paragraphs (i) (A), (B), and (C) will be further

reviewed and identified as not suited for timber production if those lands are not needed to meet the timber and other multiple-use objectives specified for the area by the regional plan and an economic analysis reveals that the lands are not efficient for producing timber. Any economic analysis will be based on the assumptions that the lands are managed primarily for timber production and are in fully regulated condition; that technically feasible management practices are applied which have a net economic benefit given anticipated future price levels and cost levels reasonably and directly related to efficient and prudent timber management; and that the cost of administration, protection, and access are borne proportionately by those other resource values produced while the land is under primary management for timber.

b. *Proposed Changes Regarding Timber Harvest Scheduling*

§ 219.10(d)(4) *Determination of the allowable sale quantity.* The interdisciplinary team shall formulate management alternatives that include determination of the quantity of timber that may be sold during the planning period. These determinations must be based on the principle of sustained yield and consider only those lands capable, suitable, and available for timber production which meet the silvicultural standards and guidelines in paragraph (3). For each management alternative, the determination must include a calculation of the long-term sustained-yield capacity and the base harvest schedule and, when appropriate, a calculation of timber harvest schedule alternatives that may depart from the base harvest schedule as provided in paragraphs (i) through (iii). Each alternative shall be described in written detail to permit effective public and technical review.

(i) For the base harvest schedule, (A) the planned sale ahd harvest for any future decade must be equal to or less than the long-term sustained-yield capacity, and (B) the total harvest must be the maximum achievable from the forest during the first rotation.

(ii) The determinations of the long-term sustained-yield capacity, base harvest schedules, and departure alternatives to the base harvest schedule will be made on the basis of the guidelines which follow.

(A) For the long-term sustained-yield capacity and the base harvest schedule, assume an intensity of management and degree of timber utilization consistent with the goals, assumptions, and standards contained in or used in the preparation of the current Renewable Resource Program and regional plan. For the long-term sustained-yield capacity, the management and utilization assumptions must reflect those projected for the fourth decade of the regional plan. For the base harvest schedule the management and utilization assumptions must reflect the projected changes in practices for the four decades of the regional plan. Beyond the fourth decade, the assumptions must reflect those projected for the fourth decade of the regional plan.

(B) For departure alternatives to the base harvest schedule which provide outputs above the current regional plan, assume an appropriate management intensity.

(C) In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period shall generally have reached the culmination of mean annual increment of growth. Mean annual increment must be based on management intensities and utilization standards assumed in paragraphs (A) and (B) of this paragraph and expressed as units of measure consistent with the regional plan. Exceptions to those standards are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack; for the improvement of age-class distribution; or for the removal of particular species of trees after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of a forest plan.

(D) For all harvest schedules, other than the base harvest schedule, achieve a forest structure by the conclusion of the first rotation that will enable perpetual timber harvest thereafter at the long-term sustained-yield capacity, consistent with the long-range multiple-use objectives of the alternatives.

(iii) Departures from the base harvest schedules will be considered and formulated when any of the following conditions occur:

(A) None of the timber harvest alternatives formulated has the capacity to produce the goods, services, or uses to meet objectives specified for the area by the regional plan.

(B) Attainment of the multiple-use objectives of the forest plan will be enhanced by more rapid and efficient achievement of the long-term sustained-yield capacity of the forest owing to present forest structure or by reducing high mortality losses.

(C) Implementation of the base harvest schedule would cause instability or dislocation in the economic area in which the forest is located.

(D) Implementation of an alternative plan would provide greater public benefits, including but not limited to, a combined flow of public and private timber that better meets local and national demands or achieving to the extent possible a better balance between expenditures for timber management and the return to the Federal Goverment from the sale of timber and the value of other related uses.

(5) Harvest schedule selection. Selection of a harvest schedule must be made following a comparison of management alternatives and the public benefits to be achieved from each. This comparison must include an evaluation of the sustained-yield goal, silvicultural standards and guidelines, and the effects of timber removal on other resources. The responsible Forest Service official shall describe in writing the justification for the selection made and the standards used. The selected harvest schedule provides the allowable sale quantity, or the quantity of timber that may be sold from the area of land covered by the forest plan for the plan period. Within the planning period, the volume of timber to be sold in any 1 year may exceed the average annual allowable sale quantity so long as the total amount sold for the planned period does not exceed the allowable sale quantity. Nothing in this standard shall prohibit the responsible Forest Service official from providing for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack, provided such harvest is consistent with silvicultural and environmental standards. This timber may either substitute for timber that would otherwise be sold under the plan or, if not feasible be sold over and above the planned volume.

BOB BERGLAND,
Secretary.

AUGUST 25, 1978.

[FR Doc. 78-24482 Filed 8-30-78; 8:45 am]

federal register

THURSDAY, AUGUST 31, 1978
PART IV

ENVIRONMENTAL PROTECTION AGENCY

■

BEST CONVENTIONAL POLLUTANT CONTROL TECHNOLOGY

Reasonableness of Existing Effluent Limitation Guidelines; Proposed Rules; Correction

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 405, 406, 407, 408, 409, 411, 412, 418, 422, 424, 426, 427, 432]

BEST CONVENTIONAL POLLUTANT CONTROL TECHNOLOGY

Reasonableness of Existing Effluent Limitation Guidelines

Correction

In FR Doc. 78-23254, appearing at page 37570 in the issue for Wednesday, August 23, 1978, the tables on pages 37575 and 37576 were type set incorrectly. As corrected, these tables should read as follows:

TABLE 4

INDUSTRY Subcategory	(CFR Part)	(1) BCT=BAT	(2) BAT unreasonable, BAT suspended	(3) Insufficient data, BAT suspended	(4) Judicial remand, BAT suspended	(5) BAT analysis not required, no action
DAIRY						
1. Recieving Stations	(405.13)	x				
2. Fluid Prod.	(405.23)	x				
3. Cultured Prod.	(405.33)	x				
4. Butter	(405.43)	x				
5. Cottage, Cream Cheese	(405.53)	x				
6. Natural, Proc. Cheese	(405.63)	x				
7. Fluid Mix Ice Cream	(405.73)	x				
8. Ice Cream, Frozen Desserts	(405.83)	x				
9. Condensed Milk	(405.93)	x				
10. Dry Milk	(405.103)	x				
11. Condensed Whey	(405.113)	x				
12. Dry Whey	(405.123)	x				
GRAIN MILLS						
13. Corn Wet	(406.13)	x				
14. Corn Dry	(406.23)	x				
15. Bulgar Wheat	(406.43)		x			
16. Parboiled Rice	(406.83)	x				
17. Ready-to-eat	(406.93)	x				
18. Wheat Starch and Gluten	(406.103)	x				
CANNED AND PRESERVED FRUITS & VEGETABLE						
19. Apple Juice	(407.13)	x				
20. Apple Products	(407.23)	x*	x*			
21. Citrus Products	(407.33)	x				
22. Frozen Potato	(407.43)	x				
23. Dehydrated Potato	(407.53)	x				
24. Canned & Pres. Fruits**	(407.63)		x			

TABLE 4 (cont'd)

INDUSTRY Subcategory	(CFR Part)	(1) BCT=BAT	(2) BAT unreasonable, BAT suspended	(3) Insufficient data, BAT suspended	(4) Judicial remand, BAT suspended	(5) BAT analysis not required, no action
25. Canned & Pres. Vegetables**	(407.73)		x			
26. Canned & Misc. Specialities	(407.83)		x			
CANNED AND PRESERVED SEAFOODS						
27. Farm Raised Catfish	(408.13)			x		
28. Conv. Blue Crab	(408.23)			x		
29. Mech. Blue Crab	(408.33)			x		
30. Non-Remote Alaskan Crab	(408.43)			x		
31. Remote Alaskan Crab	(408.53)			x		
32. Non-Remote Alaskan Whole Crab	(408.63)			x		
33. Remote Alaskan Whole Crab	(408.73)			x		
34. Dungeness and Tanner Crab	(408.83)			x		
35. Non-Remote Alaskan Shrimp	(408.93)			x		
36. Remote Alaskan Shrimp	(407.103			x		
37. Northern Shrimp	(408.113)			x		
38. Southern Non-Breaded Shrimp	(408.123)			x		
39. Breaded Shrimp	(408.133)			x		
40. Tuna	(408.143)			x		
41. Fish Meal	(408.153)	x				
42. West Coast Butchered Salmon	(408.183)	x				
43. West Coast Mech. Salmon	(408.193)	x				

TABLE 4 (cont'd)

INDUSTRY Subcategory	(CFR Part)	(1) BCT=BAT	(2) BAT unreasonable, BAT suspended	(3) Insufficient data, BAT suspended	(4) Judicial remand, BAT suspended	(5) BAT analysis not required, no action
44. Non-Alaskan Conv. Bottom Fish	(407.213)	x				
45. Non-Alaskan Mech. Bottom Fish	(408.233)	x				
46. Hand-Shucked Clam	(408.243)	x				
47. Mech. Clam	(408.253)	x				
48. Pacific Hand-Shucked Oyster	(408.263)	x				
49. Atlantic & Gulf Hand-Shucked Oyster	(408.273)	x				
50. Steamed & Canned	(408.283)	x				
51. Sardine	(408.293)	x				
52. Non-Alaskan Scallop	(408.303)	x				
53. Non-Alaskan Herring Fillet	(408.323)	x				
54. Abalone Proc.	(408.333)	x				
SUGAR PROCESSING						
55. Peet Sugar	(409.13)	x				
56. Crystalline Cane Sugar	(409.23)	x***		x***		
57. Liquid Cane Sugar	(409.33)	x				
CEMENT						
58. Leaching	(411.13)			x		
FEEDLOTS						
59. Ducks	(412.23)	x				
FERROALLOYS						
60. Open Electric Furnaces Wet	(424.13)	x				
61. Covered Electric & Smelting Wet	(424.23)	x				
62. Slag Proc.	(424.33)	x				

TABLE 4 (cont'd)

INDUSTRY Subcategory	(CFR Part)	(1) BCT=BAT	(2) BAT unreasonable, BAT suspended	(3) Insufficient data, BAT suspended	(4) Judicial remand, BAT suspended	(5) BAT analysis not required, no action
63. Covered Calcium Carbide Wet	(424.43)		x			
64. Elect. Manganese	(424.63)		x			
65. Elect. Chromium	(424.73)		x			
GLASS						
66. Ins. Fiberglass	(426.13)	x				
67. Plate	(426.43)	x				
68. Float	(426.53)		x			
69. Auto Tempering	(426.63)		x			
70. Auto Laminating	(426.73)		x			
71. Container	(426.83)		x			
72. Tubing	(426.103)		x			
73. TV Picture Tube	(426.113)		x			
74. Incandescent	(426.123)		x			
75. Hand Pressed & Blown	(426.133)		x			
ASBESTOS						
76. Cement Pipe	(427.13)					x
77. Cement Sheet	(427.23)					x
78. Paper (Starch Binder)	(427.33)					x
79. Paper (Elastomeric Binder)	(427.43)					x
80. Roofing	(427.63)					x
81. Floor Tile	(427.73)					x
82. Wet Dust Col.	(427.113)					x
MEAT PRODUCTS						
83. Simple Slaughterhouse	(432.13)				x	
84. Complex Slaughterhouse	(432.23)				x	
85. Low Proc. Packinghouse	(432.33)				x	
86. High Proc. Packinghouse	(432.43)				x	
87. Small Proc.	(432.53)	x				

TABLE 4 (cont'd)

INDUSTRY Subcategory	(CFR Part)	(1) BCT=BAT	(2) BAT unreasonable, BAT suspended	(3) Insufficient data, BAT suspended	(4) Judicial remand, BAT suspended	(5) BAT analysis not required, no action
88. Meat Cutter	(432.63)	x				
89. Sausage and Luncheon	(432.73)	x				
90. Ham Proc.	(432.83)	x				
91. Canned Meats	(432.93)	x				
92. Renderers	(432.103)	x				
PHOSPHATES						
93. Sodium Phosphates	(422.63)	x				

COLUMN EXPLANATIONS

(1) BAT control of conventional pollutants has been determined to be reasonable. The Agency is proposing that BCT be equal to the BAT control of conventional pollutants. The Agency is also proposing that BAT control of conventional pollutants be withdrawn.

(2) The BAT control of conventional pollutants (except for pH) has been determined to be unreasonable. The Agency is proposing that the BAT control of conventional pollutants except for pH be withdrawn until such time that BCT standards can be developed. The Agency is also proposing that the BCT control of pH be equal to the BAT control.

(3) Sufficient data to determine reasonableness is not available. The Agency is proposing that the BAT control of conventional pollutants (except pH) be withdrawn. The Agency is proposing that the BCT control of pH be equal to the BAT control.

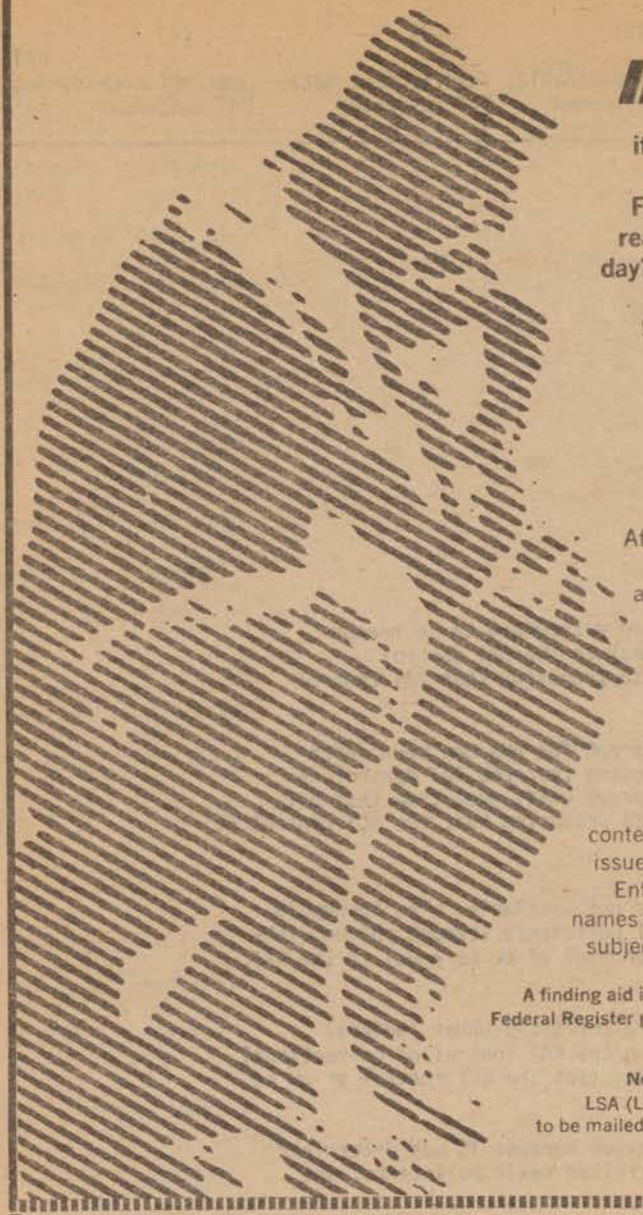
(4) The BAT regulations for these subcategories are currently under judicial review. Consequently, the Agency is suspending the BAT control of conventional pollutants (except pH). The Agency is proposing that the BCT control of pH be equal to the BAT control.

(5) These BAT regulations were removed from the review because it was determined that the BAT limitation of zero discharge controlled toxic pollutants, not conventional pollutants.

* Apple Products - small plants (processing under 10 tons per day) were found to be unreasonable. Large plants (over 100 tons per day) were found reasonable. The proposed subcategory regulation has been rewritten to cover only those plants processing over 100 tons per day. Comments are invited on this size cutoff.

**BAT limitations for mushrooms and tomatoes are being proposed as BCT, while regulations for all other products in these subcategories are determined to be unreasonable.

***Crystalline Cane Sugar - small plants (processing less than 600 tons per day) were found to be unreasonable. Large plants (over 2100 tons per day) were found to be reasonable. The proposed subcategory regulation has been rewritten to cover only those plants processing over 2100 tons per day. Comments are invited on this size cutoff.



would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the LSA (List of CFR Sections Affected), the "Federal Register Index," or both.

LSA (List of CFR Sections Affected)
$10.00
per year

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index $8.00
per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the LSA (List of CFR Sections Affected) will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $_____ for _____ subscription(s) to the publications checked below:

_____ LSA (LIST OF CFR SECTIONS AFFECTED) ($10.00 a year domestic; $12.50 foreign)

_____ FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)

Name _____

Street Address _____

City _____ State _____ ZIP _____

Make check payable to the Superintendent of Documents